

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT 308 HON. CHARLES MC COY, JUDGE
4 RICHARD BOEKEN,)
5 PLAINTIFF,)
6)
7) CASE NO. BC226593
8 PHILIP MORRIS,) VOLUME 32
INCORPORATED, A)
9 CORPORATION; INTERNATIONAL)
HOUSE OF PANCAKES)
10 INCORPORATED, A CORPORATION)
11)
DEFENDANTS.)
12 _____)
13 REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS
14 FRIDAY, MAY 11TH, 2001
15 APPEARANCES:
16 (FOR PLAINTIFF) LAW OFFICES OF
MICHAEL J. PIUZE
17 11755 WILSHIRE BLVD.
SUITE 1170
18 LOS ANGELES, CA 90025
19 (FOR DEFENDANTS) ARNOLD & PORTER
BY: MAURICE A. LEITER
20 JOHN CARLTON
777 S. FIGUEROA ST.
21 44TH FLOOR
LOS ANGELES, CA 90017
22
LISA C. RIDLEY
23 OFFICIAL REPORTER
600 S. COMMONWEALTH AVE.
24 ROOM 308
LOS ANGELES, CA 90005
25
26 VOLUME 32 OF
PAGES 5293 THROUGH 5390
27
28
5293
1 LOS ANGELES, CALIFORNIA; FRIDAY, MAY 11TH, 2001
2 9:10 A.M.
3 DEPARTMENT 308 HON. CHARLES MC COY, JUDGE
4
5 (THE FOLLOWING PROCEEDINGS
6 WERE HELD IN OPEN COURT IN
7 THE PRESENCE OF THE JURY.)
8
9 THE COURT: GOOD MORNING, LADIES AND
10 GENTLEMEN.
11 GOOD TO SEE ALL OF YOU.
12 ALL RIGHT. GOOD MORNING, COUNSEL.
13 GOOD TO SEE YOU.
14 OUR WITNESS. HOW ARE YOU. GOOD TO
15 SEE YOU AGAIN.
16 YOU UNDERSTAND YOU ARE STILL UNDER
17 OATH.
18 THE WITNESS: YES.
19 THE COURT: PLEASE BE SEATED, AND WOULD
20 YOU PLEASE REMIND THE JURY OF YOUR NAME.
21 THE WITNESS: DEBORAH HOSHIZAKI.

22
23
24 DEBORAH HOSHIZAKI,
25 CALLED AS A WITNESS BY THE DEFENSE, HAVING BEEN
26 PREVIOUSLY DULY SWORN, RESUMED THE WITNESS STAND
27 AND TESTIFIED FURTHER AS FOLLOWS:
28 /// /// ///

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1 CROSS-EXAMINATION (RESUMED)

2

3 BY MR. PIUZE:

4 Q. GOOD MORNING.

5 A. YES.

6 Q. WHEN YOU LEFT THE OTHER DAY, HERE'S

7 WHERE WE WERE. THIS IS LENOX HILL HOSPITAL,

8 SHELDON SOMMERS, AND THE DATE IS NOVEMBER 3, 1978.

9 DO YOU REMEMBER WE WERE DISCUSSING

10 THIS PART?

11 A. YES, I DO.

12 Q. JUST TO GIVE US A RUNNING START,

13 SHELDON SOMMERS WAS WHOM?

14 A. DR. SOMMORS WAS THE SCIENTIFIC

15 DIRECTOR OF C.T.R. AT THE TIME OF THIS MEMO WAS

16 WRITTEN, HE WAS THE SCIENTIFIC DIRECTOR.

17 Q. WHEN DID HE START?

18 A. WHEN DID HE START WHAT?

19 Q. IN THAT CAPACITY?

20 A. AS DIRECTOR?

21 Q. YES.

22 A. I BELIEVE HE STARTED IN THE EARLY

23 '70'S.

24 Q. WHEN DID HE START WITH C.T.R.?

25 A. AS AN S.A.B. MEMBER?

26 Q. NO. AT ALL, WHEN DID HE FIRST

27 START ANY RELATIONSHIP WITH THE COMMITTEE FOR

28 TOBACCO RESEARCH?

5295

1 A. I DON'T KNOW WHEN HE STARTED ANY

2 RELATIONSHIP. I KNOW HE WAS ON THE S.A.B. AND HE

3 WAS THE DIRECTOR.

4 MR. LEITER: SORRY TO INTERRUPT. IT

5 MIGHT BE HELPFUL IF YOU RAISE THE MICROPHONE A

6 LITTLE BIT. IT WOULD BE EASIER TO HEAR.

7 THE WITNESS: SORRY.

8 Q BY MR. PIUZE: WHEN DID HE STOP

9 BEING INVOLVED WITH THEM?

10 A. I BELIEVE THAT DR. SOMMORS WAS

11 INVOLVED WITH C.T.R. UNTIL ITS END.

12 Q. THAT WAS 1998?

13 A. THAT WAS 1998 OR THE END OF 1997.

14 Q. IT WAS THE END OF 1997, WASN'T IT?

15 A. YES, IT WAS.

16 Q. ABOUT THE TIME YOU BECAME INVOLVED

17 WITH WHAT YOU THOUGHT WAS C.T.R., FOR THIS

18 LITIGATION, IT WAS ALREADY A DEFUNCT ORGANIZATION?

19 A. IT NO LONGER WAS IN EXISTENCE, YES.

20 Q. WHAT WAS DR. SOMMORS DOING WITH THE

21 COMMITTEE FOR TOBACCO RESEARCH OVER THE LAST TEN

22 YEARS, LET'S SAY, '87 TO '97?

23 A. I BELIEVE HE WAS A C.E.O. IN THE

24 COUNCIL.

25 Q. CHIEF EXECUTIVE OFFICER?

26 A. ALL I KNOW, I THINK IT WAS THE

27 C.E.O. AND UNFORTUNATELY I HAVE NO CONCEPT OF
28 BUSINESS ORGANIZATIONS. SO IF THE C.E.O. AND THE
5296

1 CHIEF EXECUTIVE OFFICERS IS THE SAME THING, THEN,
2 YES.

3 Q. AT THE END OF, I FORGET WHICH DAY
4 IT WAS, BUT WHATEVER DAY IT WAS, AT THE END OF THE
5 DAY, YOU EXPRESSED YOUR OPINION THAT THIS GUY WAS
6 VERY ANGRY AT THE ATTEMPTS OF LAWYERS TO INTERFERE
7 WITH SCIENTIFIC WORK IN THE COMMITTEE FOR TOBACCO
8 RESEARCH. DO YOU REMEMBER THAT?

9 A. YES, OF COURSE, I DO.

10 HE WAS UPSET ABOUT THE LAWYERS
11 BEING INVOLVED IN THIS PARTICULAR ISSUE HAVING TO
12 DO WITH THE FUXE APPLICATION.

13 Q. AND I THINK YOU SAID, HEY, HE
14 FOUGHT IT OFF, WHATEVER THOSE LAWYERS TRIED TO DO
15 DIDN'T WORK, HE FOUGHT IT OFF, THE FUXE APPLICATION
16 WAS GRANTED. YOU SAID THAT, DIDN'T YOU?

17 A. YES, IT WAS.

18 Q. WAS THIS THE FIRST TIME THAT THE
19 LAWYERS HAD TRIED TO GET INVOLVED TO DECIDE WHAT
20 KIND OF SCIENTIFIC RESEARCH SHOULD BE DONE OR
21 SHOULD NOT BE DONE WITHIN THE COMMITTEE FOR TOBACCO
22 RESEARCH?

23 MR. CARLTON: OBJECTION, LACK OF
24 FOUNDATION.

25 THE COURT: IF YOU KNOW.

26 THE WITNESS: NO, I DON'T. THIS IS THE
27 ONLY DOCUMENT, NOT THE ONLY DOCUMENT, EXCUSE ME,
28 THIS IS THE ONLY INSTANT THAT I RECALL AS BEING
5297

1 SOMETHING THAT I WAS QUITE CONCERNED WHEN I SAW
2 THIS DOCUMENT. AND SPENT SOME TIME TRYING TO
3 FIGURE OUT WHAT WAS GOING ON, WHY WERE THE LAWYERS
4 INVOLVED, DR. SOMMORS' RESPONSE TO IT AND WHAT
5 HAPPENED SUBSEQUENTLY.

6 AND THE BOTTOM LINE IS THAT C.T.R.
7 CONTINUED TO FUNCTION AS AN INDEPENDENT
8 ORGANIZATION. AND AS I THINK YOU CAN TELL FROM
9 THIS LETTER, DR. SOMMORS WAS NOT HAPPY IN HIS
10 FEELINGS THAT LAWYERS MIGHT BE INVOLVED IN THIS
11 PARTICULAR CASE AND REVIEWING APPLICATIONS.

12 AND THE BOTTOM LINE IS THAT THE
13 S.A.B. MEMBERS AND THE SCIENTIFIC DIRECTOR
14 CONTINUED TO RUN C.T.R. AND TO DETERMINE WHAT
15 RESEARCH WAS GOING TO BE FUNDED.

16 Q. SO WHEN YOU SAY THIS IS THE ONLY, I
17 FORGET YOUR WORD, INSTANT, TIME, WHAT DID YOU SAY,
18 THIS IS THE ONLY WHAT?

19 A. THIS IS THE ONLY MAJOR INCIDENT
20 THAT I CAN RECALL OF MY REVIEWING OF THE MATERIALS.

21 Q. THEN I GUESS WE NEED TO KNOW WHERE
22 IS THE BRIGHT LINE BETWEEN A MAJOR INCIDENT AND A
23 NOT SO MAJOR INCIDENT.

24 A. WELL, THIS HAS TO DO, THIS IS
25 SOMETHING SPECIFICALLY INVOLVING C.T.R. MEMBERS AND
26 IS, IN WHICH I THINK THAT THERE'S SOMETHING THAT
27 THE ATTEMPTS OF LAWYERS HAD AN IMPACT ON C.T.R. IN
28 THE SENSE THAT IT EVOKED SUCH A RESPONSE.

5298

1 Q. OKAY. WELL, WHAT OTHER INCIDENTS
2 DO YOU HAVE KNOWLEDGE OF WHERE THE LAWYERS FOR THE

3 TOBACCO COMPANIES TRIED TO GET INVOLVED WITH THE
4 C.T.R. TO SAY THOU SHALT NOT DO THIS KIND OF
5 RESEARCH, SHALL DO THIS KIND OF RESEARCH, WE ARE
6 GOING TO BE DECIDE; ANY?
7 A. NOT THAT I CAN RECALL. THERE'S
8 SORT OF LITTLE SUGGESTIONS IN SOME OF THE INTERNAL
9 MEMOS, SHOULD LEGAL COUNSEL BE INVOLVED, INVOLVED
10 IN HELPING TO GUIDE, YOU KNOW, THE SCIENTIFIC
11 ADVISORY BOARD, LITTLE SUGGESTIONS LIKE THAT, BUT
12 NONE WHICH HAD ANY IMPACT ON THE RESEARCH PROGRAM.
13 Q. SO IT'S FAIR TO SAY THIS GUY WAS
14 ANGRY, THIS IS SOMMERS, AND THIS INCIDENT INVOLVED
15 IN THE FUXE APPLICATION IS THE ONLY ONE THAT YOU
16 HAVE KNOWLEDGE OF AFTER REVIEWING ALL THE STUFF
17 THEY GAVE YOU, WHERE THE LAWYERS TRIED TO STEER THE
18 RESEARCH?
19 A. WELL, THIS IS THE ONLY ONE IN WHICH
20 THE LAWYERS CAME OUT AS BEING, AS WE CAN DIRECTLY
21 POINT TWO THE ACTIONS OF LAWYERS, THERE WERE SOME
22 OTHER INCIDENTS IN HERE IN WHICH THERE WAS OUTSIDE
23 INFLUENCES IN TERMS OF TRYING TO DECIDE WHAT SHOULD
24 BE FUNDED AND WHAT SHOULDN'T BE. AND BASICALLY THE
25 SCIENTIFIC ADVISORY BOARD AND THE DIRECTOR CAN
26 IGNORE THESE INTRUSIONS AND CONTINUE TO FUNCTION
27 INDEPENDENTLY OF THE TOBACCO COMPANIES, THE VARIOUS
28 LAWYERS.

5299

1 AND I THINK AS EVIDENT BY THE
2 RESEARCH PROGRAM THAT THEY DID FOCUS THE PROGRAM IN
3 TRYING TO GET AN UNDERSTANDING OF WHAT WAS INVOLVED
4 IN DEVELOPMENT OF LUNG CANCER AND THE EFFECTS OF
5 CIGARETTE SMOKING.

6 Q. READ THAT LAST PARAGRAPH OUT LOUD,
7 SAME EXHIBIT, SAME LETTER, SAME DR. SOMMORS, SAME
8 MESSAGE?

9 A. CERTAINLY.
10 "REMEMBER WHEN CONDENSATE
11 FRACTION RESEARCH WHICH WAS
12 PROSCRIBED -- " I AM HAVING A HARD
13 TIME FROM HERE.
14 "WE LOST DR. CRAIGHEAD. MY
15 CONSIDERED OPINION IS THAT THE TIME
16 FOR ME TO SEVER CONNECTIONS WITH
17 C.T.R. IS NEAR. I WOULD BE PLEASED TO
18 TELL MR. JOSEPH CULLMAN THE PROBLEM IF
19 HE IS INTERESTED. WITH ALL OTHERS
20 INVOLVED WE HAVE HAD MORE THAN
21 COMPLETE DISCUSSIONS."
22 SO IN THIS PARTICULAR --

23 Q. HANG ON NOW. THANK YOU FOR READING
24 THAT.

25 WHAT'S CONDENSATE FRACTION
26 RESEARCH, WHAT IS THAT?

27 A. CONDENSATE FRACTION RESEARCH, THAT
28 HAS TO DO, IN THIS PARTICULAR CASE, IN LOOKING AT
5300

1 DIFFERENT PARTS OF CIGARETTE SMOKE.

2 Q. TO DO WHAT?

3 A. YOU ASKED ME WHAT CONDENSATE
4 FRACTION RESEARCH IS, THIS IS LOOKING AT THE
5 DIFFERENT COMPONENTS OF CIGARETTE SMOKE.

6 Q. IN ORDER TO DO WHAT?

7 A. IN ORDER TO SORT OUT WHETHER OR NOT

8 WHAT IS IN THE FRACTIONS AND TO DETERMINE THE
9 BIOLOGICAL ACTIVITY OF THOSE FRACTIONS. AND THAT
10 GOES BACK TO WHAT I DESCRIBED IN THOSE BOARDS WHEN
11 WE LOOKED AT THE SMOKE CONDENSATE RESEARCH AND WE
12 SAID THEY NEEDED TO KNOW WHAT FRACTIONS WERE
13 PRESENT AND HOW TO TEST THOSE VARIOUS FRACTIONS.
14 AND THAT LED INTO THE ANIMAL INHALATION STUDIES TO
15 FIGURE OUT WHAT THE GUIDE LINES WERE.
16 Q. SO CONDENSATE FACTION RESEARCH IS
17 SOMETHING THAT WOULD BE LOOKING INTO CIGARETTE
18 SMOKE TO FIND OUT WHAT THE BAD GUYS ARE; RIGHT?
19 A. CORRECT.
20 Q. OKAY. WHAT IS PROSCRIBED? WHAT
21 DOES THAT WORD MEAN, PROSCRIBED?
22 A. IN THIS PARTICULAR INCIDENCE, I
23 PRESUME THAT THIS WAS THE RESEARCH THAT WAS BEING
24 SUGGESTED THAT SHOULD BE CARRIED OUT.
25 Q. NO, NO. IT SAYS, "REMEMBER WHEN,"
26 THAT'S PAST TENSE, "PROSCRIBED," PAST TENSE. WHAT
27 DOES "PROSCRIBED" MEAN?
28 A. I DON'T KNOW. I DON'T KNOW IN THIS
5301
1 CONTEXT THAT YOU ARE REFERRING TO.
2 Q. WELL, DOESN'T "PROSCRIBED" MEAN
3 FORBIDDEN, DOESN'T IT?
4 A. I DON'T KNOW.
5 Q. DOESN'T "PROSCRIBED" MEAN NOT
6 ALLOWED?
7 A. OKAY.
8 Q. SO "REMEMBER WHEN CONDENSATE
9 FRACTION RESEARCH," TO FIND OUT WHERE THE BAD GUYS
10 ARE WAS NOT ALLOWED. REMEMBER THAT?
11 A. REMEMBER, YES, I DO, IT'S UP THERE
12 ON THE BOARD.
13 Q. WE LOST CRAIGHEAD, WHO IS
14 CRAIGHEAD?
15 A. CRAIGHEAD WAS ON THE S.A.B. HE WAS
16 ON THE S.A.B. FOR ONLY ONE MEETING.
17 AND IN THAT MEETING WHERE CRAIGHEAD
18 WAS PRESENT, THERE WAS A DISCUSSION ON CONDENSATE
19 FRACTION RESEARCH, AND IN THAT MEETING, AND IN THE
20 SUBSEQUENT MEETINGS, CONDENSATE FRACTION RESEARCH
21 WAS CARRIED OUT, ALTHOUGH THERE MIGHT HAVE BEEN A
22 SUGGESTION THAT IT SHOULDN'T BE CARRIED OUT.
23 CONDENSATE RESEARCH WAS CARRIED
24 OUT, CRAIGHEAD ONLY CAME TO ONE MEETING AND
25 SUBSEQUENTLY DID NOT ATTEND THE REST OF THE
26 MEETINGS. HE QUIT C.T.R.
27 NOW, WHY CRAIGHEAD QUIT C.T.R. IS
28 NOT CLEAR TO ME. IT'S NOT CLEAR IN THE MEETINGS
5302
1 WHY HE DID NOT CONTINUE ON THE S.A.B. BOARD.
2 HOWEVER, THE RESEARCH AND
3 CONDENSATE FRACTION RESEARCH, ALTHOUGH WAS
4 PROSCRIBED, IT WAS, NEVERTHELESS, FUNDED AND THEY
5 CONTINUED TO HAVE RESEARCH IN THAT PARTICULAR
6 FIELD.
7 Q. OKAY. THANKS.
8 SO NOW I AM GOING TO ASK YOU
9 ANOTHER QUESTION.
10 WE HAVEN'T HAD A CHANCE TO REVIEW
11 ALL THE DOCUMENTS YOU HAVE. WE ARE JUST LOOKING AT
12 THIS ONE DOCUMENT HERE, WHERE DR. SOMMORS SHOWS HIS

13 ANGER AT LAWYERS FOR TRYING TO BUTT IN AND DECIDE
14 WHAT KIND OF SCIENTIFIC RESEARCH CAN BE CARRIED
15 OUT.
16 NOT JUST LAWYERS, TOBACCO COMPANY
17 LAWYERS, AND DECIDE WHAT KIND OF SCIENTIFIC
18 RESEARCH SHOULD BE CARRIED OUT AND WHAT KIND OF
19 SCIENTIFIC RESEARCH CAN'T BE CARRIED OUT.
20 AND HE IS SO ANGRY THAT HE SAYS I
21 THINK WE SHOULD RENAME OUR ORGANIZATION COUNCIL FOR
22 LEGALLY PERMITTED TOBACCO RESEARCH. AND THE SAME
23 LETTER HE SAYS, REMEMBER WHEN CONDENSATE FRACTION
24 RESEARCH WAS PROSCRIBED, WE LOSE CRAIGHEAD.
25 NOW, PUTTING THAT TOGETHER WITH
26 YOUR COMMENT THAT CRAIGHEAD ATTENDED ONE MEETING
27 BEFORE BAILING OUT, AND YOU ARE SAYING YOU DON'T
28 KNOW WHY HE LEFT C.T.R.

5303

1 A. I HAVE SPECULATION THAT -- IF I
2 MIGHT BE ABLE TO GIVE YOU THAT SPECULATION, I THINK
3 THEY HAD A HEATED DISCUSSION. CONDENSATE RESEARCH
4 MATERIAL WAS FUNDED AND CRAIGHEAD DIDN'T BOTHER TO
5 COME BACK TO THE SECOND MEETING TO SEE WHAT THE
6 OUTCOME WAS GOING TO BE.
7 I SUSPECT THAT DR. CRAIGHEAD HAD
8 NOT COMPLETED REVIEWING ALL OF HIS GRANT
9 APPLICATIONS AND WHICH IS WHY HE DID NOT CONTINUE
10 WITH THE S.A.B.
11 SO THE BOTTOM LINE IS THAT THE
12 CONDENSATE FRACTION RESEARCH WAS, IN FACT, FUNDED
13 AND THEY DID RESEARCH IN THAT FIELD, AS I DESCRIBED
14 DURING MY EARLIER TESTIMONY.
15 SO THE FACT THAT CRAIGHEAD DID NOT
16 CONTINUE ON THE S.A.B. IS NOT BECAUSE CONDENSATE
17 RESEARCH WAS FORBIDDEN, BECAUSE WE KNOW THAT
18 CONDENSATE RESEARCH WAS CARRIED OUT.
19 Q. WHEN, IN 1999?
20 A. THIS WAS, I THINK YOU TOLD ME THAT
21 THIS WAS IN 1972.
22 Q. YEAH, BUT I AM ASKING A DIFFERENT
23 QUESTION.
24 WHEN WAS THIS RESEARCH CARRIED OUT?
25 A. IT WAS CARRIED OUT FROM THE VERY
26 BEGINNING. IN 1957, YEAH, 1957, WHICH IS WHEN IT
27 IS LISTED IN THE ANNUAL REPORT AND THEY TALKED
28 ABOUT CARRYING OUT THAT WORK FROM THE MIDDLE OF THE

5304

1 '50'S.
2 Q. WHEN DID WE LOSE CRAIGHEAD?
3 A. I BELIEVE IN THE 1970'S.
4 Q. SO, YOU KNOW, HE'S THE CHIEF
5 SCIENTIST ON THE SCIENTIFIC ADVISORY BOARD?
6 A. DR. SOMMORS, IS, YES.
7 Q. HE IS SAYING THIS RESEARCH IS
8 PROSCRIBED -- HANG ON, HANG ON, PLEASE.
9 A. EXCUSE ME.
10 Q. HE IS SAYING, WHEN IT WAS
11 PROSCRIBED, WE LOSS THIS SCIENTIST, YOU HAVE TOLD
12 US THE SCIENTIST ATTENDED ONE MEETING AND BAILED
13 OUT. WELL, IF IT WAS PROSCRIBED IN THE 1970'S --
14 A. IT WAS NOT PROSCRIBED IN THE
15 1970'S. THEY CONTINUED TO DO CONDENSATE RESEARCH.
16 Q. OKAY. HERE'S A NEW TOPIC, A
17 SLIGHTLY NEW TOPIC OR A SHIFT.

18 HAVE YOU SEEN THIS DOCUMENT BEFORE?
19 A. COULD I SEE THE ORIGINAL, PLEASE.
20 Q. WHILE MR. CARLTON'S IS LOOKING,
21 THIS IS PLAINTIFF'S 4022. THE BLOWUP IS 8061. YOU
22 MAY SEE THE ORIGINAL.
23 YOU CAN TAKE THAT SMALL ONE OFF IF
24 YOU WOULD LIKE.
25 A. THANK YOU.
26 Q. SO YOU HAVE SEEN THIS ONE BEFORE;
27 RIGHT?
28 A. YES, I HAVE.
5305

1 Q. FROM PHILIP MORRIS TO LORILLARD.
2 LET ME STOP A SECOND BEFORE I GO
3 FURTHER. YOU REMEMBER THE OTHER AFTERNOON SOME OF
4 THE DOCUMENTS THAT YOU HAD REVIEWED THAT WERE UP ON
5 THE ELMO FOR THE JURY TO SEE WERE FROM LORILLARD,
6 DO YOU REMEMBER THAT?
7 A. YES, I DO.
8 Q. AND THE THING THAT WE HAVE BLOWN UP
9 HERE IS THAT PHILIP MORRIS IS SUGGESTING TO
10 LORILLARD, IN 1980, THAT PHILIP MORRIS WANTS TO
11 AVOID RELATING HUMAN DISEASE TO SMOKING.
12 YOU ARE AWARE OF THAT, AREN'T YOU?
13 A. AWARE OF WHAT'S WRITTEN ON THAT
14 DOCUMENT?
15 Q. SURE. YOU ARE AWARE THAT YOU HAVE
16 SEEN THIS DOCUMENT; RIGHT?
17 A. YES, I AM.
18 Q. NOW, WOULDN'T CONDENSATE FRACTION
19 RESEARCH BE AN ATTEMPT TO RELATE HUMAN DISEASE TO
20 SMOKING?
21 A. THAT WOULD BE ONE WAY OF RELATING
22 HUMAN DISEASE TO SMOKING, YES.
23 Q. SO REMEMBER, PLEASE, THAT WHILE I
24 WAS CROSS-EXAMINING YOU THE OTHER DAY ON SEVERAL
25 OCCASIONS, ONE OF THE THINGS YOU SAID WAS, WELL,
26 YOU KNOW WHAT, THE TOBACCO COMPANIES WEREN'T HAPPY
27 WITH C.T.R. BECAUSE IT WAS DOING -- IT'S RESEARCH
28 WAS TOO GOOD?
5306

1 A. I BELIEVE I SAID THAT INDIVIDUALS,
2 SPECIFIC INDIVIDUALS WERE NOT HAPPY.
3 Q. OKAY. SO WHICH INDIVIDUALS DID YOU
4 HAVE IN MIND?
5 A. INDIVIDUALS SUCH AS DR. SPEARS,
6 DR. OSDENE, DR. WAKEHAM.
7 Q. OSDENE, PHILIP MORRIS; WAKEHAM,
8 PHILIP MORRIS; SPEARS, LORILLARD; RIGHT?
9 A. CORRECT.
10 Q. ANYONE ELSE?
11 A. NOT THAT I CAN RECALL OFFHAND.
12 Q. IT LOOKS, WOULD YOU AGREE, THAT
13 FROM THIS LETTER, WHICH IS EXHIBIT 10,026, WRITTEN
14 ON NOVEMBER 3RD, 1978, ABOUT A YEAR AND A HALF
15 BEFORE THIS ONE WHERE PHILIP MORRIS DOES NOT WANT
16 ANY KIND OF SCIENCE THAT MIGHT LINK SMOKING TO
17 HUMAN DISEASE --
18 MR. CARLTON: OBJECT TO THE
19 CHARACTERIZATION OF THE LETTER, IT SPEAKS FOR
20 ITSELF.
21 THE COURT: SHE CAN RESPOND.
22 Q BY MR. PIUZE: DON'T YOU THINK

23 THAT BACK IN NOVEMBER, ONE OF THE REASONS THAT THIS
24 MAN, DR. SOMMORS, WAS AS ANGRY AS YOU DESCRIBED
25 HIM, LAST TIME, BECAUSE OF THIS PAST INCIDENT RIGHT
26 HERE?

27 A. NO, I DON'T. I THINK THAT IF YOU
28 LOOK AT ATTEMPTS TO RELATE HUMAN DISEASE TO
5307

1 SMOKING -- AND REMEMBER, THIS IS IN 1980, IT
2 DEPENDS ON WHAT HE IS REALLY REFERRING TO HERE,
3 RELATE HUMAN DISEASE TO SMOKING, IN THE ORIGINAL
4 WAY THAT THEY WERE RELATING HUMAN DISEASE TO
5 SMOKING WAS FROM THE EPIDEMIOLOGICAL STUDIES, FROM
6 THE '50'S, I THINK, DOES EVERYONE REMEMBER THOSE --
7 THE EPIDEMIOLOGY STUDIES, AND THE PROBLEM WITH THE
8 EPIDEMIOLOGY STUDIES IS THAT BY THE NATURE OF
9 EPIDEMIOLOGY STUDIES, WE GET AN IDEA OF WHAT THE
10 ASSOCIATIONS ARE. AND IF WE ARE GOING TO
11 UNDERSTAND THE CAUSE OF LUNG CANCER, IT MEANS WE
12 NEED TO UNDERSTAND THE PROCESS OF LUNG CANCER.
13 SO IF THE SUBJECT'S TO BE AVOIDED,
14 THE REFERENCE TO ATTEMPTS TO RELATE HUMAN DISEASE
15 TO SMOKING IS SUGGESTING THAT THEY DO MORE
16 EPIDEMIOLOGY STUDIES NOW, IN 1980, ON ONE HAND
17 DOING MORE OF THE SAME SORT OF EPIDEMIOLOGY STUDIES
18 THAT IS A -- INTERVIEWING INDIVIDUALS WHO SMOKED,
19 DETERMINING WHICH OF THOSE HAVE DEVELOPED LUNG
20 CANCER, THOSE TYPE OF STUDIES WHICH WOULD RELATE
21 HUMAN DISEASE TO SMOKING WOULD NOT REALLY BE VERY
22 PRODUCTIVE.

23 IF, ON THE OTHER HAND, THIS MEANS
24 NOT TO CARRY OUT STUDIES SUCH AS RELATING WHAT WE
25 NOW CALL MOLECULAR EPIDEMIOLOGY TO SMOKING, THOSE
26 EXPERIMENTS, THOSE STUDIES TODAY, ACTUALLY ARE
27 BEING VERY FRUITFUL IN OUR UNDERSTANDING WHY 20
28 PERCENT OF THE PEOPLE DEVELOP LUNG CANCER OF THOSE
5308

1 THAT SMOKE, WHERE THE OTHER 80 PERCENT WHO SMOKE DO
2 NOT.

3 ON THE OTHER HAND, IF THIS
4 STATEMENT IS TO ATTEMPT TO RELATE HUMAN DISEASE TO
5 SMOKING, I MEAN, IT'S VERY DIFFICULT TO FIGURE OUT,
6 SHOULD THIS TOPIC BE AVOIDED, IT DEPENDS ON WHAT
7 TYPE OF WORK THIS STATEMENT IS REFERRING TO.

8 IN 1980, CONDENSATE FRACTION
9 RESEARCH IS SOMETHING TO BE AVOIDED, IF IT -- IT
10 DEPENDS ON THE TYPE OF CONDENSATE RESEARCH.
11 CERTAINLY THE RESEARCH IN WHICH
12 PORTIONS OF THE CONDENSATES ARE BEING TESTED FOR
13 CARCINOGENICITY, THOSE STUDIES WERE CARRIED OUT BY
14 C.T.R. AND THOSE STUDIES SHOULD BE CARRIED OUT.

15 Q. OKAY. READY FOR THE NEXT QUESTION?

16 A. SURE.

17 Q. AFTER HE MENTIONED THE FACT THAT
18 CONDENSATE FRACTION RESEARCH WAS PROSCRIBED AND
19 THAT WE LOST CRAIGHEAD, HE THEN GOES ON TO SAY, I
20 MAY BE QUITTING. DO YOU SEE THAT?

21 A. YES, I DO. I DO SEE THAT UP THERE.

22 Q. IN THIS NEXT LINE THAT I HAVEN'T
23 HIGHLIGHTED, IT MENTIONS MR. JOSEPH CULLMAN, WHO IS
24 THAT?

25 A. OH, I BELIEVE JOSEPH CULLMAN WAS AN
26 EXECUTIVE IN PHILIP MORRIS.

27 Q. I WOULD BE PLEASED TO TELL THIS

28 EXECUTIVE FROM PHILIP MORRIS THE PROBLEMS IF HE IS
5309

1 INTERESTED. WITH ALL OTHERS INVOLVED WE HAVE HAD
2 MORE THAN COMPLETE DISCUSSIONS.
3 DO YOU KNOW WHAT THAT MEANS?

4 A. WELL, AS WE KNOW THAT DR. SOMMORS
5 DID NOT QUIT C.T.R. WE KNOW THAT THE CONDENSATE
6 RESEARCH WAS FUNDED, THEY CARRIED OUT WORK IN THAT,
7 AND SO THIS IS -- THIS, AGAIN, THIS MEMO IS
8 INDICATING THAT DR. SOMMORS WAS NOT HAPPY BUT ON
9 THE BOTTOM, THE FINAL LINE IS THAT HE WON, HE GOT
10 THAT RESEARCH FUNDED, HE CONTINUED ON IN C.T.R. AND
11 THE FACT IS THAT CRAIGHEAD ATTENDED ONLY ONE
12 MEETING AND WHY HE QUIT, MAY HAVE BEEN BECAUSE HE
13 THOUGHT CONDENSATE RESEARCH WAS NOT GOING TO BE
14 FUNDED, BUT, IN FACT, IT WAS FUNDED. AND PERHAPS
15 HE SHOULD HAVE STAYED AROUND FOR A SECOND MEETING.

16 Q. SO IF YOUR SPIN ON THIS IS CORRECT,
17 THIS LETTER WAS WRITTEN BETWEEN THE FIRST MEETING
18 AND THE SECOND MEETING?

19 A. IF MY SPIN ON THIS IS CORRECT, YES,
20 I BELIEVE IT WAS. OR WHETHER THE LETTER WAS
21 WRITTEN, THE FACT OF DR. CRAIGHEAD'S PARTICIPATION,
22 BECAUSE YOU REALIZE HERE THAT THEY ARE TALKING
23 ABOUT A PAST EVENT HERE.

24 Q. PAST EVENT.

25 OKAY. WELL, I AM DONE WITH THIS.

26 I AM READY TO GO TO ANOTHER PAST EVENT.

27 HERE'S ANOTHER DOCUMENT THAT YOU

28 WERE GIVEN TO REVIEW THAT WAS IN YOUR RELIANCE
5310

1 PACKAGE AND THIS IS FROM MINNESOTA, 10/1/77.
2 THIS HAS ALREADY BEEN MARKED AS
3 10,025. IT'S FROM LORILLARD AND THE DATE IS JUNE
4 24, 1974.

5 DO YOU SEE THAT, THE NAMES JUDGE
6 AND SPEARS? WE HAVE SEEN THOSE NAMES BEFORE?

7 A. YES. CAN I HAVE A COPY OF THE
8 ORIGINAL UP HERE.

9 IT'S VERY DIFFICULTY TRYING TO JUST
10 LOOK AT THE EXCERPTS.

11 Q. THE ANSWER IS NO, BECAUSE I ONLY
12 HAVE ONE THIS TIME. BUT I AM SORRY.

13 MR. LEITER: MAYBE SHE COULD REVIEW IT
14 FOR A SECOND BEFORE YOU PUT IT UP.

15 MR. PIUZE: SURE, ABSOLUTELY.
16 HERE YOU GO.

17 THE WITNESS: JUDGE, THE LADY WHO IS IN
18 THE BACK, IF SHE PUTS HER FEET UP ON A BOX, IT MAY
19 HELP HER.

20 THE COURT: SHE WILL TALK TO ME. YOU
21 REVIEW THAT.

22 THE WITNESS: MR. PIUZE.

23 MR. PIUZE: YES.

24 Q BY MR. PIUZE: THIS IS JUNE 1974,
25 HERE'S WHAT I WANTED TO ASK YOU.

26 LET ME READ IT THIS TIME.

27 "HISTORICALLY, THE JOINT
28 INDUSTRY FUNDED SMOKING AND HEALTH

5311

1 RESEARCH PROGRAMS HAVE NOT BEEN
2 SELECTED AGAINST SPECIFIC SCIENTIFIC
3 GOALS, BUT RATHER FOR VARIOUS PURPOSES

4 SUCH AS PUBLIC RELATIONS, POLITICAL
5 RELATIONS, POSITION ON LITIGATION, ET
6 CETERA. THUS, IT SEEMS OBVIOUS THAT
7 REVIEW OF SUCH PROGRAMS FOR SCIENTIFIC
8 RELEVANCE AND MERIT IN THE SMOKING AND
9 HEALTH FIELD ARE NOT LIKELY TO PRODUCE
10 HIGH RATINGS. IN GENERAL, THESE
11 PROGRAMS HAVE PROVIDED SOME BUFFER TO
12 THE PUBLIC AND POLITICAL ATTACK OF THE
13 INDUSTRY AS WELL AS BACKGROUND FOR
14 LITIGIOUS STRATEGY."
15 NOW, DID YOU REVIEW ALL OF THAT
16 BEFORE YOU CAME UP WITH THE OPINIONS THAT YOU HAVE
17 RENDERED HERE?
18 A. I LOOKED AT THIS DOCUMENT AND THIS
19 IS, AGAIN, AN INTERNAL SCIENTIST AT LORILLARD TO
20 HIS ADMINISTRATIVE BOSS. SO THIS IS ONE
21 INDIVIDUAL, AND THIS IS HIS PARTICULAR OPINION OF
22 THE FUNDING PROGRAMS OR THE PROJECTS THAT LORILLARD
23 HAS BEEN INVOLVED IN, IN TERMS OF FUNDING.
24 Q. SO, YES, YOU DID LOOK AT IT?
25 A. YES, I DID LOOK AT IT AND THE FACT
26 IS THAT THIS, REALLY, TO ME, HAD VERY LITTLE IMPACT
27 ON THE C.T.R. RESEARCH PROGRAM. AND IN FACT, IF WE
28 LOOK AT THE END OF THIS DOCUMENT, I BELIEVE AT THE
5312
1 END, THE VERY, VERY END --
2 Q. I GOT SOME MORE YELLOW, BUT LET'S
3 GO BACK TO THE END AND I WANT TO GO BACK TO THE
4 YELLOW.
5 MOTIVATIONAL?
6 YOU TELL ME, IS THAT WHAT YOU WANT?
7 A. CAN YOU MAKE THAT BIGGER, PLEASE.
8 Q. SURE.
9 A. OKAY, I AM THINKING OF A DIFFERENT
10 MEMO, SORRY.
11 Q. THAT'S OKAY.
12 A. I MEAN, THE FACT IS THAT THIS WAS
13 ONE INDIVIDUAL WRITING TO HIS BOSS ABOUT HIS
14 OPINIONS OF C.T.R. TO ME, THIS DID NOT HAVE A BIG
15 IMPACT ON THE RESOLVES OF THE C.T.R. RESEARCH
16 PROGRAM.
17 Q. LET ME TELL YOU IN ADVANCE WHERE I
18 AM GOING HERE.
19 I WANT TO COMPARE HOW LORILLARD
20 LOOKED AT THE C.T.R. WITH HOW PHILIP MORRIS LOOKED
21 AT THE C.T.R.; OKAY?
22 A. FINE.
23 Q. SO THIS DOCUMENT THAT I JUST PUT UP
24 THERE, THAT'S A LORILLARD DOCUMENT; CORRECT?
25 RIGHT?
26 A. YES.
27 Q. AND ONE OF THE THINGS THAT WE
28 LOOKED AT WHEN YOU WERE HERE LAST FROM APRIL 21ST,
5313
1 1978, THAT WAS ALSO A LORILLARD DOCUMENT; CORRECT?
2 A. I ACTUALLY DON'T KNOW IF THAT'S A
3 LORILLARD DOCUMENT. THERE IS NO INDICATION OF WHO
4 WROTE THAT DOCUMENT.
5 Q. WELL, LET'S TAKE A LOOK.
6 I AM GOING TO PUT THIS UP HERE, AND
7 I ALSO HAVE A BLOWUP OF IT. SO THAT'S 10,024.
8 THIS WILL BE 10,024-A.

9 TAKE A LOOK AT NUMBER 2, THAT TELLS
10 YOU WHO IT IS FROM, DOESN'T IT?
11 A. NO, IT DOESN'T.
12
13 * (EXHIBIT 10,024, DOCUMENT,
14 EXHIBIT 10,024-A, BLOWUP,
15 MARKED FOR I.D.)
16
17 Q BY MR. PIUZE: NO?
18 A. NO, I DON'T KNOW WHO WROTE THIS
19 DOCUMENT, I DON'T KNOW WHO THE AUTHOR IS. I MEAN,
20 I LOOKED AT THIS, THIS PARTICULAR DOCUMENT AND,
21 AGAIN, IT HAD NO IMPACT ON THE RESEARCH PROBLEM
22 WITH C.T.R.
23 Q. LET'S JUST TAKE A LOOK AT IT
24 BECAUSE I WANT TO COMPARE, AS I SAID, LORILLARD'S
25 VIEWPOINT TOWARDS THE C.T.R. AND PHILIP MORRIS'S;
26 OKAY.
27 "FROM APRIL '78, WE HAVE,
28 AGAIN, ABDICATED THE SCIENTIFIC
5314
1 RESEARCH DIRECTIONAL MANAGEMENT OF THE
2 INDUSTRY TO THE LAWYERS WITH VIRTUALLY
3 NO INVOLVEMENT ON THE PART OF
4 SCIENTIFIC OR BUSINESS MANAGEMENT SIDE
5 OF BUSINESS. LORILLARD'S MANAGEMENT
6 IS OPPOSED TO THE TOTAL INDUSTRY
7 FUTURE BEING IN THE HANDS OF THE
8 COMMITTEE OF COUNCIL. IT'S
9 REMINISCENT OF THE LATE '60'S WHEN
10 RAMM'S GROUP RAN THE TOBACCO
11 INSTITUTE, COMMITTEE FOR TOBACCO
12 RESEARCH AND EVERYTHING ELSE INVOLVED
13 WITH THE INDUSTRY'S PUBLIC POSTURE."
14 ANYWAY, WHETHER YOU CAN IDENTIFY
15 THIS AS A LORILLARD DOCUMENT OR NOT, IT STATES
16 LORILLARD'S POSITION ON THIS; RIGHT?
17 A. IT STATES SOMEONE'S OPINION OF
18 LORILLARD'S POSITION, YES.
19 Q. OKAY. SO BE IT.
20 SOMEONE'S OPINION IS THAT
21 LORILLARD'S MANAGEMENT IS OPPOSED TO THE TOTAL
22 INDUSTRY FUTURE BEING IN THE HANDS OF THE COMMITTEE
23 OF COUNCIL; RIGHT?
24 A. THAT'S WHAT THAT SAYS, YES.
25 Q. TAKEN TOGETHER, THE TWO LORILLARD
26 DOCUMENTS THAT I HAVE SHOWED THE JURY THIS MORNING,
27 AND YOU HAVE SEEN THEM TOO, SORT OF INDICATES,
28 LORILLARD WASN'T TOO HAPPY WITH THE LAWYERS'
5315
1 INVOLVEMENT IN THE COMMITTEE FOR TOBACCO RESEARCH
2 AND WAS SAYING THIS LOOKS LIKE IT'S BEING DONE FOR
3 PUBLIC RELATIONS, POLITICAL AND LITIGATION
4 PURPOSES; RIGHT?
5 A. WELL, WE DON'T KNOW WHO THE
6 INDIVIDUAL IS HERE.
7 Q. THE QUESTION WAS --
8 A. BUT TAKEN TOGETHER, ALL RIGHT, THE
9 FACT IS THAT THE LAWYERS WERE NOT RUNNING C.T.R.
10 Q. HERE'S MY QUESTION.
11 A. YES.
12 Q. HERE'S MY QUESTION: LOOKING AT THE
13 TWO DOCUMENTS WHICH I HAVE SHOWN THE JURY THIS

14 MORNING AND JUST SHOWN TO YOU, IT SURE LOOKS LIKE
15 LORILLARD THOUGHT THE LAWYERS WERE RUNNING THE
16 CREW; RIGHT?
17 MR. CARLTON: OBJECT TO THE
18 CHARACTERIZATION OF THE EVIDENCE.
19 Q BY MR. PIUZE: RIGHT?
20 A. YES, IT DOES.
21 Q. AND IT SURE LOOKS LIKE LORILLARD
22 THOUGHT THE COMMITTEE FOR TOBACCO RESEARCH WAS A
23 POLITICAL PUBLIC RELATION AND LITIGATION FIRM;
24 RIGHT?
25 A. BASED ON THOSE TWO DOCUMENTS, THAT
26 LOOKS LIKE THAT WAS LORILLARD'S POSITION BUT WE
27 KNOW, FOR A FACT, THAT C.T.R. WAS NOT BEING RUN BY
28 THE LAWYERS AND THAT THE C.T.R. RESEARCH PROGRAM
5316
1 WAS ONE WHICH WAS ACTUALLY VERY POSITIVE IN OUR
2 UNDERSTANDING OF WHAT IS INVOLVED IN THE
3 DEVELOPMENT OF LUNG CANCER.
4 Q. THANK YOU.
5 SO THAT WAS A YES; RIGHT?
6 MR. CARLTON: OBJECTION.
7 THE COURT: OVERRULED.
8 Q BY MR. PIUZE: I MEAN, THAT'S A
9 YES TO MY QUESTION; RIGHT?
10 A. THAT THAT WAS LORILLARD'S POSITION,
11 YES.
12 Q. THANKS. OKAY.
13 DO YOU HAVE ANY IDEA WHAT SIZE
14 COMPANY LORILLARD WAS BACK IN THE '70'S, UP TO '80,
15 COMPARED TO PHILIP MORRIS?
16 A. I AM HERE TO TESTIFY ABOUT C.T.R.
17 I AM NOT HERE TO -- AND I HAVE NO KNOWLEDGE OF THE
18 WORKINGS OF TOBACCO COMPANIES.
19 Q. NO, SO YOU DON'T --
20 A. SO MY ANSWER IS I HAVE NO IDEA HOW
21 BIG LORILLARD IS RELATIVE TO PHILIP MORRIS.
22 Q. ALL RIGHT, THANK YOU.
23 WITH ALL THE HIGH TECH STUFF WE
24 HAVE GOT IN HERE, I AM GOING TO HAVE TO POINT THAT
25 TOWARDS YOU FOR A SECOND. CAN YOU SEE THAT?
26 A. YES, I CAN.
27 Q. THAT'S LORILLARD.
28 NOW, YOU WERE SAYING LAST FRIDAY,
5317
1 EXCUSE ME, LAST WEDNESDAY, THAT WAS THIS WEEK, THAT
2 YOU HAD SEEN DOCUMENTS, DOCUMENTS HAD BEEN GIVEN TO
3 YOU THAT SHOWED THAT SOME OF THE TOBACCO COMPANIES
4 WERE ANGRY AT C.T.R. FOR DOING REAL RESEARCH;
5 RIGHT?
6 A. NO. WHAT I SAID THAT THERE WERE
7 INDIVIDUALS WITHIN THE TOBACCO COMPANIES.
8 Q. ALL RIGHT. WELL, LET'S START WITH
9 THOMAS OSDENE, DR. THOMAS OSDENE.
10 PHILIP MORRIS SCIENTIST; CORRECT?
11 A. COULD I SEE THE ORIGINAL DOCUMENT
12 AGAIN.
13 IT'S JUST THAT I DON'T -- I DON'T
14 HAVE THESE THINGS MEMORIZED, AND LOOKING AT
15 EXCERPTS, IT IS VERY DIFFICULT.
16 Q. THIS IS ALL I HAVE GOT ON THIS ONE.
17 A. UH-OH.
18 Q. OKAY?

19 A. OKAY.
20 Q. CAN YOU SEE THAT?
21 A. YEAH. WILL YOU HOLD IT UP THERE.
22 Q. SURE.
23 A. GREAT, THANK YOU.
24 Q. I AM GOING TO SHOW IT TO THE JURY
25 NOW. HERE. I CAN DO BOTH.
26 DR. OSDENE WAS A SCIENTIST AT
27 PHILIP MORRIS; RIGHT?
28 A. YES, HE WAS.
5318
1 Q. HIGH-RANKING SCIENTIST AT PHILIP
2 MORRIS?
3 A. I DON'T KNOW WHERE HE WAS RANKED
4 BUT I PRESUME SO.
5 Q. DO YOU KNOW WHAT KIND OF SCIENCE HE
6 DID?
7 A. NO, I DON'T.
8 Q. DR. OSDENE DIDN'T LIKE THE FACT
9 THAT C.T.R. WAS DOING REAL, WHAT HE SAID, WAS REAL
10 RESEARCH; RIGHT?
11 A. I DON'T KNOW WHAT DR. OSDENE'S
12 POSITION WAS. HE DIDN'T CARE FOR SOME OF THE
13 RESEARCH TOPICS.
14 Q. SEEING THAT YOU DEFINITELY GOT ME
15 AT A DISADVANTAGE NOW, COULD YOU READ THAT.
16 A. THE TOP PART?
17 Q. START AT THE TOP.
18 A. OKAY.
19 "I WAS AMAZED AT THE TREND
20 THAT C.T.R. WORK IS TAKING FOR
21 OPENERS. DR. DONALD H. FORD, A NEW
22 STAFF MEMBER, MAKES THE FOLLOWING,
23 QUOTES, OPIATES AND NICOTINE MAYBE
24 SIMILAR IN ACTION. WE ACCEPT THE FACT
25 THAT NICOTINE IS HABITUATING. THERE
26 IS A RELATIONSHIP BETWEEN NICOTINE AND
27 THE OPIATES."
28 DO YOU WANT ME TO READ THE SECOND
5319
1 PART, TOO.
2 MR. PIUZE: PLEASE.
3 THE WITNESS: TURN IT A LITTLE.
4 "IT IS MY STRONG FEELING
5 THAT WITH THE PROGRESS THAT HAS BEEN
6 CLAIMED, WE ARE IN THE PROCESS OF
7 DIGGING OUR OWN GRAVE. I BELIEVE THAT
8 THE PROGRAM, AS SET UP, HAS THE
9 POTENTIAL OF GREAT DAMAGE TO THE
10 INDUSTRIES AND I STRONGLY URGE THAT
11 THE WHOLE RELATIONSHIP OF OUR COMPANY
12 TO C.T.R. BE CAREFULLY REVIEWED.
13 "I AM VERY MUCH AFRAID THAT
14 THE DIRECTION OF THE WORK BEING TAKEN
15 BY C.T.R. IS TOTALLY DETRIMENTAL TO
16 OUR POSITION AND UNDERMINES THE PUBLIC
17 POSTURE WE HAVE TAKEN TO OUTSIDERS."
18 Q. THANK YOU.
19 SO BACK TO, I THINK, MY QUESTION,
20 WHETHER THIS WAS PHILIP MORRIS'S POSITION OR ONLY
21 THEIR SCIENTIST, DR. OSDENE'S POSITION, DON'T YOU
22 THINK THAT DR. OSDENE WAS CRITICIZING C.T.R.
23 BECAUSE ITS RESEARCH WAS TOO REAL?

24 A. I THINK DR. OSDENE WAS CRITICIZING
25 C.T.R.
26 Q. BECAUSE ITS RESEARCH WAS TOO REAL?
27 A. I AM NOT SURE I UNDERSTAND WHAT THE
28 TERM "REAL" MEANS. THE FACT IS THAT I THINK THE
5320
1 JURY, AND WE HAVE DISCUSSED THE ASPECTS OF THE
2 USAGE PROGRAM, THE EMPHASIS ON BIOMEDICAL STUDIES,
3 OBVIOUSLY, IN HERE, WAS CONCERNED.
4 Q. HOW ABOUT, I KNOW THIS ISN'T
5 EXACTLY A SCIENTIFIC QUOTE, BUT DIGGING OUR OWN
6 GRAVE, WHAT DO YOU THINK DR. OSDENE -- DO YOU KNOW
7 WHO SELIGMAN IS, BY THE WAY?
8 A. I BELIEVE HE'S AN ADMINISTRATOR AND
9 EXECUTIVE OF PHILIP MORRIS.
10 Q. SO BACK IN 1977, WHEN OSDENE WAS
11 SAYING TO AN EXECUTIVE AT PHILIP MORRIS, THIS
12 C.T.R. RESEARCH IS DIGGING OUR GRAVE, THAT'S WHAT
13 YOU UNDERSTOOD TO MEAN COMPLAINTS FROM WITHIN THE
14 TOBACCO COMPANIES THAT THE RESEARCH WAS TOO GOOD,
15 TOO REAL, TOO ON POINT; RIGHT?
16 A. NO.
17 MR. CARLTON: SPECULATION.
18 THE COURT: CALLS FOR HER UNDERSTANDING.
19 IS THAT WHAT YOU WERE THINKING?
20 THE WITNESS: THERE WERE SEVERAL THINGS
21 THAT I WAS THINKING. ONE IS THAT THE INDIVIDUALS
22 WHO HAD THEIR COMPLAINTS, THOSE FEW INDIVIDUALS
23 WERE ALSO RESEARCH SCIENTISTS WITHIN THE INDUSTRY.
24 HERE WE HAVE A SITUATION WHERE FUNDS FOR RESEARCH
25 WERE BEING SENT ELSEWHERE. SO THAT WAS SOMETHING
26 THAT --
27 Q. LET'S STOP WITH THAT ONE, BECAUSE I
28 WOULD LIKE TO DISCUSS THAT.
5321
1 IF THAT'S A HYPOTHESIS, LET'S SEE
2 IF IT STANDS UP.
3 YOU ARE SAYING THAT OSDENE WAS
4 COMPLAINING BECAUSE MAYBE THE C.T.R. WAS GETTING
5 SOME OF HIS RESEARCH MONEY?
6 A. I DON'T KNOW WHETHER OR NOT THAT
7 WAS THE CASE.
8 BUT THAT WAS ONE OF THE THINGS THAT
9 I WAS, YOU KNOW, WONDERING ABOUT, THE FACT THAT MR.
10 OR DR. OSDENE HERE, YOU KNOW, HE IS AN INDUSTRY
11 RESEARCHER AND I THINK THAT THE RESEARCH THAT WAS
12 BEING DONE, ESPECIALLY -- THAT DOCUMENT IS 1980, IS
13 THAT CORRECT?
14 Q. IT'S 1977, NOVEMBER 29.
15 A. 1977. THE FACT THAT THE COUNCIL OF
16 TOBACCO RESEARCH START EMBARKING ON FUNDING
17 BIOMEDICAL RESEARCH BACK IN THE '60'S. AND I WOULD
18 THINK THAT THIS RESEARCH WAS BEING DONE AT TOPNOTCH
19 UNIVERSITIES. IT WAS BEING DONE BY ACADEMICS.
20 THEY ARE REALLY STARTING TO DO CUTTING EDGE WORK
21 USING THE LATEST TECHNOLOGY THAT WAS AVAILABLE AT
22 THE TIME.
23 AND I THINK IT WAS, PERHAPS,
24 DIFFICULT FOR SOME OF THE INDUSTRY SCIENTISTS TO
25 REALLY UNDERSTAND AND TO APPRECIATE THE WORK THAT
26 WAS BEING DONE OUTSIDE.
27 Q. SO WHAT GRAVE WAS HE DIGGING? HOW
28 DOES OUTSIDE RESEARCH DIG PHILIP MORRIS'S GRAVE IN

5322

1 THIS GUY'S MIND?

2 A. I DON'T --

3 MR. CARLTON: OBJECTION, CALLING FOR
4 SPECULATION.

5 MR. PIUZE: I WILL WITHDRAW THAT.

6 THE COURT: IT IS HER UNDERSTANDING,
7 THOUGH.

8 MR. CARLTON: HE ASKED ABOUT HIS MIND.

9 THE COURT: YES, BUT, STILL, I REALIZE

10 THAT, BUT STILL IF SHE HAS READ THESE DOCUMENTS,
11 SHE HAS INTERPRETED THEM AND HE IS CROSS-EXAMINING
12 HER ON HER INTERPRETATION, THAT'S ALL.

13 Q BY MR. PIUZE: YOU TOLD US THAT

14 YOU CAME HERE TO DISCUSS THE C.T.R.; RIGHT?

15 A. YES, I DID.

16 Q. YOU DIDN'T COME HERE TO DISCUSS

17 PHILIP MORRIS; RIGHT?

18 A. I HAVE NO EXPERTISE IN PHILIP

19 MORRIS.

20 Q. SO THAT'S A RIGHT; RIGHT?

21 A. CORRECT.

22 Q. YOU ARE NOT HERE TO DEFEND PHILIP

23 MORRIS; RIGHT?

24 A. CERTAINLY NOT.

25 Q. SO WHEN I ASK YOU ABOUT PHILIP

26 MORRIS DOCUMENTS AND YOU TAKE THE TIME TO POINT
27 OUT, WELL, THAT'S NOT REALLY NECESSARILY PHILIP
28 MORRIS, THAT'S JUST SOME GUY WHO HAPPENS TO WORK

5323

1 FOR PHILIP MORRIS, AREN'T YOU DEFENDING PHILIP

2 MORRIS HERE?

3 A. WELL, I WAS SURPRISED WHEN I WAS

4 READING THROUGH THE INTERNAL DOCUMENTS -- AND

5 THERE'S ALSO ONE -- AND AGAIN, I DON'T HAVE THESE
6 MEMORIZED -- IN WHICH IT WAS, I THINK, A SUMMARY OF
7 ONE OF THE MEETINGS OF ALL THE TOBACCO COMPANIES
8 AND THEY ARE WRITING UP THE SUMMARY, AN INDICATION
9 THAT PHILIP MORRIS WAS ACTUALLY THE ONE WHO WAS
10 REALLY PUSHING BASIC RESEARCH AND FELT BASIC
11 RESEARCH WAS GOING TO BE THE BEST THING IN TERMS OF
12 UNDERSTANDING THE ISSUES BETWEEN SMOKING AND LUNG
13 CANCER.

14 I ALSO KNOW THAT DR. WAKEHAM, WHO

15 WAS A COLLEAGUE OF DR. OSDENE, WAS EVENTUALLY TOLD,
16 GET WITH THE PROGRAM HERE, TRY TO BE LESS NEGATIVE
17 ABOUT C.T.R.

18 Q. PHILIP MORRIS WAS THE ONE THAT WAS

19 PUSHING -- NOW, I AM SHOWING EXHIBIT 422 AGAIN. I

20 DON'T WANT TO BE SURPRISING YOU AGAIN. THIS IS
21 THE -- THIS ONE, PHILIP MORRIS WAS PUSHING BASIC
22 RESEARCH TO TRY TO DO WHAT, DID YOU JUST SAY?

23 A. TO UNDERSTAND LUNG CANCER AND
24 SMOKING.

25 Q. IT LOOKS LIKE THE VICE-PRESIDENT OF

26 RESEARCH AND DEVELOPMENT OF PHILIP MORRIS U.S.A.

27 DIDN'T KNOW ABOUT IT, AT LEAST IN 1980, DOESN'T IT?

28 A. CAN I SEE THE ORIGINAL DOCUMENT?

5324

1 Q. YES.

2 A. I AM SORRY, WHAT WAS YOUR QUESTION?

3 Q. IT LOOKS LIKE THE VICE-PRESIDENT

4 FOR RESEARCH AND DEVELOPMENT OF PHILIP MORRIS

5 U.S.A. DIDN'T KNOW ABOUT THAT, AT LEAST ON MARCH
6 31ST, 1980?
7 A. AND THAT'S IN REFERENCE TO THE
8 SUBJECTS TO BE AVOIDED?
9 Q. YES.
10 A. I THINK WE TALKED ABOUT NUMBER 2,
11 IT DEPENDS, IT'S VERY DIFFICULT TO TELL WHAT TYPE
12 OF RESEARCH THEY ARE REFERRING TO, RELATED TO HUMAN
13 DISEASES, SMOKING, DOES THAT MEAN MORE EPIDEMIOLOGY
14 STUDIES, WHICH WOULD NOT BE PRODUCTIVE, OTHER TYPES
15 OF STUDIES PROBABLY WOULD BE MORE PRODUCTIVE. I
16 MEAN, THIS COMMENT THAT I AM REFERRING TO IS
17 SOMETHING I RAN ACROSS IN MY INTERNAL MEMOS, SO --
18 Q. SO YOU ARE NOT HERE TO DEFEND
19 PHILIP MORRIS?
20 A. NO, I AM NOT HERE TO DEFEND PHILIP
21 MORRIS.
22 Q. OKAY. BY THE WAY, WHEN -- YOU GAVE
23 A DEPOSITION IN THIS CASE, DIDN'T YOU?
24 A. YES, I DID.
25 Q. AND BEFORE THAT DEPOSITION, YOU
26 SPENT ENOUGH HOURS BEING BRIEFED ON THAT -- BRIEFED
27 FOR THE UP-COMING DEPOSITION THAT YOU BILLED 6,000
28 BUCKS JUST TO PREPARE FOR THE DEPOSITION; RIGHT?
5325
1 A. WELL, A LOT OF THAT, THAT TIME WAS
2 ACTUALLY MY TRYING TO EXPLAIN TO MR. MICHAELS, THE
3 LAWYER FROM C.T.R., WHAT WAS INVOLVED IN THE
4 DEVELOPMENT OF LUNG CANCER AND THE RELATIONSHIPS
5 AND DOING SOME BASIC TUTORING IN BIOLOGY.
6 Q. HE WASN'T GOING TO HAVE HIS
7 DEPOSITION TAKEN, WAS HE?
8 A. BUT HE WAS ASKING ME QUESTIONS AND
9 I AM TRYING TO EXPLAIN TO HIM WHAT MY POSITION
10 WOULD BE, WHICH LED HIM TO UNDERSTANDING THE BASIS
11 OF MY POSITION.
12 Q. I'D LIKE YOU TO JUST TAKE A LOOK,
13 IF YOU WOULD, PLEASE, I AM GOING TO GIVE YOU THIS
14 DEPOSITION TRANSCRIPT OF YOURS. AND I AM LOOKING
15 AT 79 AND 80. YOU CAN READ WHATEVER YOU WANT,
16 BUT --
17 WEREN'T YOU ASKED HOW MUCH TIME YOU
18 HAD SPENT FOR THE DEPOSITION AND YOU WOUND UP
19 SAYING 6,000 BUCKS' WORTH?
20 A. YES. I WAS ASKED HOW MUCH TIME I
21 SPENT. YES, 6,000 WOULD BE WHAT WOULD COME OUT,
22 YES.
23 Q. NOW, PART OF THAT DEPOSITION
24 BRIEFING, PART OF THAT -- DO YOU WANT TO READ MORE,
25 I AM NOT TRYING TO PULL IT AWAY FROM YOU.
26 A. DO YOU NEED IT?
27 Q. YES, BECAUSE I HAVE MORE QUESTIONS
28 I AM GOING TO BE ASKING.
5326
1 PART OF THAT DEPOSITION BRIEFING,
2 DIDN'T INVOLVE JUST MR. MICHAEL'S FLYING OUT FROM
3 NEW YORK CITY, DID IT?
4 A. I MET WITH DOCTOR, WITH MR. MORRIE,
5 MORRIE LEITER, IN THE BEGINNING OF JANUARY.
6 Q. OKAY. YOU HAD LAWYERS FLYING IN
7 FROM NEW YORK, YOU HAD LAWYERS FLYING OUT FROM LOS
8 ANGELES TO TAKE PLACE IN DEPOSITION PROCEEDINGS;
9 RIGHT?

10 MR. CARLTON: OBJECTION -- WITHDRAW.
11 Q BY MR. PIUZE: RIGHT?
12 A. YES, THEY WERE THERE.
13 Q. HOW MANY LAWYERS?
14 A. THERE WAS MR. MICHAELS AND THERE
15 WAS MR. LEITER AND THERE WAS, I THINK, MISS PORTER,
16 I THINK, IS HER LAST NAME.
17 Q. THREE OF THEM?
18 A. YES.
19 Q. BRIEFED YOU FOR THE DEPOSITION;
20 RIGHT?
21 A. I BELIEVE WE DIDN'T TALK REALLY
22 ABOUT THE DEPOSITION WITH MR. LEITER.
23 MR. LEITER JUST WANTED TO MEET ME.
24 Q. IN LAS VEGAS?
25 A. YES.
26 Q. ANYWAY, IF YOU ARE NOT HERE -- ONE
27 LAST THING ALONG THOSE LINES, DID YOU EVER SAY TO
28 MR. MICHAELS, LOOK, C.T.R. DOESN'T EXIST, SO IF IT
5327
1 DOESN'T EXIST, WHO ARE YOU FOR, WHO --
2 MR. CARLTON: OBJECTION, IRRELEVANT.
3 THE COURT: VAGUE.
4 Q BY MR. PIUZE: OKAY. DID YOU EVER
5 ASK MR. MICHAELS WHO WAS PAYING HIS BILL?
6 A. YEAH --
7 MR. CARLTON: OBJECTION, THAT'S
8 IRRELEVANT TOO.
9 THE COURT: OVERRULED.
10 THE WITNESS: YES, I DID.
11 MR. PIUZE: AND?
12 THE WITNESS: AND HE TOLD ME THAT HE WAS
13 BEING PAID BY MONIES WHICH WERE FROM THE DIFFERENT
14 TOBACCO COMPANIES.
15 Q BY MR. PIUZE: SO EVEN THOUGH THE
16 C.T.R. WHICH WAS FUNDED BY THE TOBACCO COMPANIES
17 DIDN'T EXIST ANY MORE, HE WAS GETTING HIS MONEY
18 FROM THE TOBACCO COMPANY SOME OTHER WAY?
19 A. YES, HE WAS.
20 Q. WELL, LET ME GET THIS DOWN BECAUSE
21 THIS WASN'T WHERE I WAS.
22 NOW, I AM GOING TO, ON THE
23 LORILLARD SIDE OF THE LEDGER, I HAVE WRITTEN THESE
24 TERMS THAT YOU HAVE AGREED TO. I AM SHOWING YOU
25 THIS 8058.01, WHICH WAS THE NOVEMBER 29, 1977
26 DOCUMENT FROM OSDENE, DR. OSDENE TO DR. SELIGMAN,
27 AND DO YOU HAVE SIMILAR WORDS NOW, AND I AM
28 REFERENCING THE FACT THAT HE IS SAYING WE ARE
5328
1 DIGGING OUR OWN GRAVE, THE C.T.R. IS TOTALLY
2 DETRIMENTAL TO OUR POSITION AND UNDERMINES THE
3 PUBLIC POSTURE WE HAVE BEEN TAKING TO OUTSIDERS.
4 WOULD YOU GIVE ME A PHRASE THAT YOU ARE COMFORTABLE
5 WITH THAT WOULD CHARACTERIZE, IF NOT PHILIP
6 MORRIS'S, AT LEAST DR. OSDENE'S VIEW OF THE C.T.R.,
7 PLEASE?
8 A. IN TERMS OF DR. OSDENE'S VIEW IS
9 DR. OSDENE IS NOT VERY HAPPY WITH WHAT C.T.R., AND
10 IN REDING THAT MEMO AND DEVELOPING MY OPINIONS, I
11 JUST TOOK THAT MEMO AS SAYING THAT C.T.R. WAS
12 PROBABLY DOING GOOD WORK. HE DIDN'T LIKE THE FACT
13 THAT THEY ARE DOING WORK THAT MAY NOT BE IN
14 CONCORDANCE WITH SOME OF THE PARTICULAR RESEARCHERS

15 IN THE TOBACCO COMPANY, BUT THE FACT IS THAT C.T.R.
16 CONTINUED TO FUNCTION INDEPENDENTLY OF THE TOBACCO
17 COMPANIES.
18 I HAVE NOT REVIEWED, I DON'T KNOW
19 WHAT THE INNER WORKINGS OF PHILIP MORRIS IS, AND SO
20 I REALLY DON'T KNOW WHAT PHILIP MORRIS'S POSITIONS
21 WERE.
22 Q. OKAY. SO I AM PUTTING PHILIP
23 MORRIS IN PARENTHESIS BECAUSE YOU DON'T KNOW ITS
24 POSITION.
25 AND I WILL PUT OSDENE UP HERE
26 INSTEAD. AND I AM GOING TO PUT DOCTOR THERE
27 BECAUSE HE IS.
28 AND WHAT I WROTE IS DR. OSDENE
5329
1 DOESN'T LIKE GOOD WORK. THAT'S WHAT YOU JUST SAID;
2 RIGHT?
3 A. DOESN'T CARE FOR THE BIOMEDICAL
4 RESEARCH BEING CARRIED OUT AT C.T.R.
5 Q. DIDN'T YOU SAY IN YOUR LAST ANSWER,
6 DIDN'T LIKE THE GOOD WORK THAT WAS BEING DONE?
7 A. WOULDN'T WE LIKE TO QUALIFY WHAT WE
8 MEAN BY "GOOD WORK."
9 Q. OKAY.
10 GO AHEAD, QUALIFY. WHAT DO YOU
11 MEAN BY "GOOD WORK"?
12 A. HE DIDN'T LIKE THE TOPICS THAT WERE
13 BEING STUDIED WHICH IS THE BIOMEDICAL RESEARCH.
14 Q. OKAY. AND BEFORE I GO TO THE NEXT
15 DOCUMENT NOW, I JUST ASKED YOU, ONCE WE HAVE
16 ESTABLISHED THAT IN NOVEMBER OF 1977, IN YOUR VIEW,
17 THE SCIENTIST FOR PHILIP MORRIS DOES NOT LIKE THE
18 GOOD WORK THAT C.T.R. IS DOING?
19 A. BIOMEDICAL RESEARCH, YES.
20 Q. AND DOES NOT LIKE THE BIOMEDICAL
21 RESEARCH, I WAS GETTING THERE, DOES NOT -- I WILL
22 START AGAIN.
23 ONCE WE HAVE ESTABLISHED, IN YOUR
24 VIEW, THAT THIS SCIENTIST FOR PHILIP MORRIS, AT THE
25 END OF '77, DID NOT LIKE THE BIOMEDICAL RESEARCH
26 THAT WAS BEING CONDUCTED BY THE C.T.R., DOESN'T
27 THAT SHED A LITTLE LIGHT FOR YOU ON THIS MARCH 31,
28 1980 MEMO, FROM A PHILIP MORRIS VICE-PRESIDENT FOR
5330
1 RESEARCH AND DEVELOPMENT IN WHICH HE SAYS, WE ARE
2 GOING TO AVOID ATTEMPTS TO RELATE HUMAN DISEASE TO
3 SMOKING, DOESN'T THE ONE SHED SOME LIGHT ON THE
4 OTHER FOR YOU?
5 A. IT GOES BACK AGAIN TO WHAT I SAID
6 IS IT DEPENDS ON WHAT TYPE OF RESEARCH WE ARE
7 REFERRING TO IN TERMS OF RELATING HUMAN DISEASE TO
8 SMOKING.
9 IF THAT MEANS DOING MORE
10 EPIDEMIOLOGY STUDIES SUCH AS THE ONES THAT WE HAVE
11 DONE IN THE '50'S, THAT WOULD BE A WASTE OF MONEY.
12 IF IT MEANS --
13 Q. WHAT IF IT MEANS BIOMEDICAL
14 RESEARCH?
15 A. I DON'T KNOW, AS I TOLD YOU AGAIN,
16 I DON'T KNOW IF THAT MEANS BIOMEDICAL RESEARCH.
17 SO IT DEPENDS ON THE SPECIFICS OF
18 WHAT HE IS REFERRING TO THERE.
19 Q. I UNDERSTAND THAT.

20 A. OKAY.
21 Q. YOU DON'T KNOW WHAT HE MEANS AND I
22 AM SIMPLY ASKING, ONCE WE HAVE ESTABLISHED, LOOK,
23 THIS IS FROM OSDENE TO SELIGMAN AT THE END OF '77,
24 WE HAVE ESTABLISHED HE DOESN'T LIKE BIOMEDICAL
25 RESEARCH.
26 THIS ONE IS FROM SELIGMAN, ONE OF
27 THOSE TWO PEOPLE. THIS IS FROM SELIGMAN, IT'S LESS
28 THAN TWO YEARS LATER, I THINK. LET'S SEE, YEAH,
5331
1 IT'S A YEAR AND A HALF LATER. AND HE IS SAYING
2 ATTEMPT TO RELATE HUMAN DISEASE TO SMOKING.
3 DOESN'T THAT GIVE YOU AN INSIGHT HE IS TALKING
4 ABOUT BIOMEDICAL RESEARCH?
5 A. NO, IT DOESN'T.
6 Q. OKAY, THANKS.
7 YOU KNOW, THE ALTERNATIVE YOU HAVE
8 SUGGESTED, EPIDEMIOLOGY, HADN'T THE TOBACCO
9 INDUSTRY BEEN MAKING FUN OF EPIDEMIOLOGY FOR 30
10 YEARS?
11 A. I DON'T KNOW WHAT YOU MEAN BY
12 "MAKING FUN OF."
13 Q. HADN'T THE TOBACCO INDUSTRY BEEN
14 SAYING EPIDEMIOLOGY DON'T MEAN ANYTHING BECAUSE WE
15 DON'T KNOW THE MECHANISTIC CAUSE OF CANCER, WE
16 DON'T KNOW WHICH CELL DOES THIS FIRST BEFORE THE
17 OTHER CELL DOES THIS FIRST, BEFORE THE OTHER CELL
18 DOES THIS FIRST AND SOMEONE GETS LUNG CANCER SO
19 THAT EPIDEMIOLOGY DON'T MEAN ANYTHING?
20 MR. CARLTON: OBJECTION, ARGUMENTATIVE,
21 COMPOUND.
22 THE COURT: OVERRULED. DO YOU KNOW?
23 THE WITNESS: I DIDN'T KNOW WHAT THE
24 OPINIONS ARE WITHIN THE TOBACCO COMPANIES BECAUSE I
25 WASN'T THERE. BUT I CAN TELL YOU WHAT
26 EPIDEMIOLOGY, THE BASIS OF EPIDEMIOLOGY,
27 EPIDEMIOLOGICAL STUDIES, ARE VERY IMPORTANT
28 STUDIES --
5332
1 Q. EXCUSE ME. THANKS. BUT WE HAVE
2 HEARD THAT.
3 I AM NOT BEING DISRESPECTFUL, WE
4 HAVE HEARD THAT FROM LOTS OF PEOPLE, INCLUDING
5 DR. DOLL, WHO INVENTED IT, I THINKS, OR CAME CLOSE.
6 A. INVENTED WHAT?
7 Q. EPIDEMIOLOGY STUDIES.
8 A. EPIDEMIOLOGY STUDIES PROVIDES US
9 WITH A RELATIONSHIP, IT DOES NOT PROVIDE US WITH A
10 CAUSE, THE CAUSE OF SOMETHING.
11 Q. RIGHT.
12 AND IF THE TOBACCO COMPANIES HAD
13 BEEN SAYING, THROUGHOUT THE '50'S, THROUGHOUT THE
14 '60'S, THROUGHOUT THE '70'S, THIS EPIDEMIOLOGY
15 RESEARCH DOESN'T PROVIDE US WITH THE CAUSE OF
16 ANYTHING, WHAT IN THE WORLD MAKES YOU THINK THAT
17 WHAT THEY WANTED TO AVOID WAS MORE EPIDEMIOLOGICAL
18 RESEARCH WHICH WOULD BE REDUNDANT AND A WASTE OF
19 MONEY? YOU DON'T THINK FOR A SECOND THEY WERE
20 GOING TO CONDUCT EPIDEMIOLOGY RESEARCH, DO YOU?
21 A. I, PERSONALLY?
22 Q. YES.
23 A. IN READING THAT, I DON'T KNOW WHAT
24 THEY WANTED TO DO THERE. IF IT MEANT EPIDEMIOLOGY

25 STUDIES, THEN THAT SHOULD BE AVOIDED. IF IT MEANT
26 THEY SHOULD AVOID OTHER TYPE OF RESEARCH SUCH AS
27 BIOMEDICAL RESEARCH, THEN THEY SHOULDN'T. BUT THE
28 BOTTOM LINE IS I AM HERE TO SPEAK ON BEHALF OF
5333

1 C.T.R. AND C.T.R. CARRIED OUT BIOMEDICAL RESEARCH.

2 Q. OKAY. HERE'S -- MAYBE I SHOULD

3 JUST MAKE THAT ONE STOP HERE. I AM GETTING THERE.

4 I AM GETTING THERE.

5 THIS FRANK STATEMENT, YOU KNOW ALL

6 ABOUT THE FRANK STATEMENT; RIGHT?

7 A. YES.

8 Q. THE FRANK STATEMENT, WAS THAT THE

9 ANNOUNCEMENT TO THE WORLD OF THE TOBACCO INDUSTRY

10 RESEARCH COUNCIL?

11 A. YES, IT WAS.

12 Q. AND IN ANNOUNCING TO THE WORLD WHO

13 THE TOBACCO INDUSTRY RESEARCH COUNCIL WAS,

14 COMMITTEE, I APOLOGIZE, THE SPONSORS WERE LISTED

15 RIGHT HERE, RIGHT?

16 A. YES, IT WAS.

17 Q. FROM DAY ONE, PHILIP MORRIS WAS ONE

18 OF THE SPONSORS OF THE TOBACCO INDUSTRY RESEARCH

19 COMMITTEE; RIGHT?

20 A. YES, IT WAS.

21 Q. AND WHEN THIS ORGANIZATION CHANGED

22 IT'S NAME FROM TOBACCO INDUSTRY RESEARCH COMMITTEE

23 TO -- WHAT DOES C.T.R. MEAN?

24 A. COUNCIL FOR TOBACCO RESEARCH.

25 Q. PHILIP MORRIS WAS ALWAYS ONE OF THE

26 SPONSORS OF THAT TOO; RIGHT?

27 A. YES, IT WAS.

28 Q. UNTIL THE DAY IT WAS PUT OUT OF

5334

1 BUSINESS; RIGHT?

2 A. CORRECT.

3 Q. NOW, DID THESE COMPANIES,

4 DO YOU KNOW, I DON'T WANT YOU TO GUESS, BUT DID

5 THESE COMPANIES, THE BIGGER COMPANIES, PAY

6 PROPORTIONATELY MORE TO KEEP THESE ORGANIZATIONS

7 GOING THAN THE SMALLER COMPANIES?

8 A. I DON'T KNOW WHICH ARE THE BIG

9 TOBACCO COMPANIES AND WHICH ARE THE SMALLER ONES

10 NOR DID I KNOW WHAT THEIR ALLOCATIONS WERE TO

11 C.T.R., I AM NOT HERE TO SPEAK ON BEHALF OF THE

12 TOBACCO COMPANIES.

13 Q. SO I AM NOT -- I AM ACTUALLY

14 TALKING ABOUT C.T.R.

15 LET ME JUST TAKE AWAY THE BIG AND

16 THE LITTLE.

17 DID THESE COMPANIES FUND THE C.T.R.

18 IN PROPORTION TO HOW MUCH MONEY THE COMPANIES MAKE?

19 A. I DON'T KNOW.

20 Q. SO IF I WAS TO SUGGEST TO YOU THAT

21 PHILIP MORRIS IS A BIG, BIG, BIG COMPANY, AND

22 LORILLARD REALLY ISN'T SUCH A BIG, BIG, BIG COMPANY

23 AND PHILIP MORRIS HAD MORE MUSCLE AT THE C.T.R.

24 BECAUSE IT PUT IN MORE MONEY THAN LORILLARD DID,

25 WOULD YOU BE ABLE TO AGREE OR DISAGREE WITH THAT?

26 A. TO AGREE THAT PHILIP MORRIS HAD

27 MORE INFLUENCE IN C.T.R., IS THAT WHAT YOU ARE

28 ASKING?

5335

1 Q. YES.
2 A. PHILIP MORRIS, LORILLARD, NONE OF
3 THOSE GUYS HAD ANY INFLUENCE ON THE RESEARCH
4 PROGRAM. THE RESEARCH PROGRAM WAS CARRIED OUT AND
5 DIRECTED BY THE S.A.B. AND THE SCIENTIFIC DIRECTOR.
6 REGARDLESS OF HOW MUCH MONEY WAS
7 COMING IN OR THE INFLUENCE, AS WE CAN SEE BY
8 REVIEWING THE RESEARCH PROGRAM, THAT THAT WAS A
9 BONA FIDE RESEARCH PROGRAM, THE FACT THAT THEY DID
10 VERY GOOD WORK IN OUR UNDERSTANDING OF SMOKING AND
11 LUNG CANCER.
12 Q. LET ME ASK YOU A QUESTION.
13 SERIOUSLY.
14 WHEN YOU WERE BRIEFED FOR
15 TESTIFYING HERE, WERE YOU TOLD TO THROW THAT SAME
16 LINE INTO EVERY QUESTION I ASKED REGARDLESS OF IS
17 IT TUESDAY, IS THE SUN OUT OR IS YOUR HOME LAS
18 VEGAS?
19 A. NO, I WASN'T.
20 Q. NOW, WHAT QUESTION DID I JUST ASK
21 YOU, DO YOU REMEMBER?
22 A. WHETHER OR NOT THE SUN IS OUT?
23 Q. NO. WHAT WAS THE QUESTION THAT I
24 ASKED YOU THAT YOU WERE JUST GIVING THAT ANSWER TO,
25 DO YOU REMEMBER?
26 A. YES, I DO.
27 Q. WHAT WAS THE QUESTION?
28 A. WHETHER OR NOT IT WOULD MAKE A
5336
1 DIFFERENCE IF PHILIP MORRIS WAS A BIG, BIG COMPANY
2 AND WERE PROPORTIONALLY PROVIDING MORE MONEY, WOULD
3 THAT HAVE AN INFLUENCE ON C.T.R. AND THE LARGER
4 IMPACT ON C.T.R. THAN LORILLARD WOULD.
5 Q. AND WHAT IS YOUR ANSWER TO MY
6 QUESTION?
7 A. THE FACT IS THAT THOSE COMPANIES,
8 NO MATTER HOW MUCH MONEY THEY WERE PUTTING IN, DID
9 NOT HAVE AN IMPACT ON THE RESEARCH PROGRAM. I KEEP
10 TELLING THAT YOU BECAUSE THAT'S WHAT THE TRUTH IS.
11 Q. SO IT ISN'T "YES" AND IT ISN'T "NO"
12 AND IT ISN'T "I DON'T KNOW." RIGHT?
13 MR. CARLTON: OBJECTION, VAGUE,
14 AMBIGUOUS.
15 THE COURT: OVERRULED.
16 Q BY MR. PIUZE: HAVE YOU GIVEN US
17 YOUR BEST ANSWER?
18 A. I AM SORRY, TO WHAT QUESTION AT
19 THIS POINT?
20 Q. I WILL GO TO THE NEXT QUESTION.
21 MR. CLERK, NEXT EXHIBIT NUMBER,
22 PLEASE.
23 THE COURT: OKAY. I THINK AT THIS POINT
24 WE ARE JUST GOING TO TAKE A LITTLE BREAK TO ALLOW
25 OUR JURY TO STRETCH AND SO FORTH.
26 LADIES AND GENTLEMEN, WE WILL BE
27 BACK AT 25 UNTIL 11:00. DON'T DISCUSS THE CASE
28 WITH ANYONE.
5337
1 (AT THIS TIME, A RECESS
2 WAS TAKEN.)
3
4 (THE FOLLOWING PROCEEDINGS
5 WERE HELD IN OPEN COURT IN

6 THE PRESENCE OF THE JURY.)

7

8 THE COURT: OUR JURY PANEL IS WITH US,

9 COUNSEL ARE PRESENT AS WELL.

10 PLEASE BE SEATED.

11 MR. PIUZE.

12 MR. PIUZE: THANKS.

13

14

15 DEBORAH HOSHIZAKI,

16 CALLED AS A WITNESS BY THE DEFENSE, HAVING BEEN

17 PREVIOUSLY DULY SWORN, RESUMED THE WITNESS STAND

18 AND TESTIFIED FURTHER AS FOLLOWS:

19

20 CROSS-EXAMINATION (RESUMED)

21

22 BY MR. PIUZE:

23 Q. I HAVE SHOWN YOU, YOU HAVE A

24 DOCUMENT IN FRONT OF YOU AND THE SMALL VERSION IS

25 EXHIBIT 85.00; CORRECT?

26 A. YES.

27 Q. NOW, I PUT A BLOWUP OF THAT ON THE

28 BOARD AS 85-A.

5338

1 AND IT'S MAY 26TH, 1970. IT'S A

2 LETTER FROM THE PRESIDENT OF PHILIP MORRIS TO

3 SENATOR EARL CLEMENTS WHO IS THE PRESIDENT OF THE

4 TOBACCO INSTITUTE.

5 DO YOU HAVE THAT THERE?

6 A. THIS SAYS VICE-PRESIDENT.

7 Q. WHO?

8 A. DR. WAKEHAM.

9 Q. I AM SORRY, MY APOLOGIES ON BEHALF

10 OF ME.

11 VICE-PRESIDENT OF PHILIP MORRIS TO

12 THE PRESIDENT OF THE TOBACCO INSTITUTE; RIGHT?

13 A. VICE-PRESIDENT FROM CORPORATE

14 RESEARCH AND DEVELOPMENT, YES.

15 Q. IS HELMUT WAKEHAM ANOTHER SCIENTIST

16 AT PHILIP MORRIS?

17 A. YES, HE IS.

18 Q. I'D LIKE TO JUST DISCUSS THE TWO --

19 HERE, I'D LIKE YOU TO SEE WHERE THEY ARE COMING

20 FROM SO YOU WILL BE ABLE TO FIND THEM.

21 THE FIRST --

22 A. THANK YOU.

23 Q. YOU GOT BOTH OF THOSE PASSAGES;

24 RIGHT?

25 A. YES.

26 Q. WE KNOW WHAT C.T.R. IS. A.M.A.,

27 THAT'S THE AMERICAN MEDICAL ASSOCIATION; CORRECT?

28 A. I DON'T KNOW IF A.M.A. REFERS TO

5339

1 THE MEDICAL ASSOCIATION IN THIS MEMO.

2 Q. WHAT DO YOU THINK IT REFERS TO?

3 A. I DON'T KNOW. I MEAN, IT'S

4 PROBABLY THE C.T.R.

5 Q. YOU ARE AWARE OF THE FACT THAT SOME

6 OF THE TOBACCO MONEY THAT WAS GOING OUT FOR

7 RESEARCH WAS GOING TO THE AMERICAN MEDICAL

8 ASSOCIATION, WEREN'T YOU?

9 A. IT WAS GOING ON TO SOME MEDICAL

10 ASSOCIATION, BUT I REALLY DIDN'T PAY MUCH ATTENTION

11 TO THAT BECAUSE I WAS CONCERNED ABOUT LOOKING AT
12 C.T.R. AND NOT THE OTHER PLACES WHERE TOBACCO MIGHT
13 HAVE BEEN SENDING MONEY.

14 Q. GIVEN THE SUBJECT MATTER INVOLVED
15 WHICH IS BIOLOGICAL RESEARCH, AND GIVEN YOUR
16 KNOWLEDGE OF THE COMMUNITY, DO YOU HAVE ANY OTHER
17 POSSIBILITY FOR A.M.A. BESIDES THE AMERICAN MEDICAL
18 ASSOCIATION?

19 A. I DON'T NO. I MEAN, YOU KNOW, IF
20 IT IS THE AMERICAN MEDICAL ASSOCIATION, THEN WHY
21 DON'T YOU JUST TELL ME IT IS AND WE CAN GO ON FROM
22 THERE. BUT THE FACT IS THAT WHEN I REVIEWED
23 DOCUMENTS, I AM LOOKING AT C.T.R., I AM NOT
24 CONCERNED ABOUT WHAT ELSE THE TOBACCO COMPANIES
25 MIGHT BE -- WHERE ELSE THEY MIGHT BE SENDING MONEY.

26 Q. MY ANSWER IS I AM NOT TESTIFYING SO
27 I AM NOT TELLING YOU, I AM JUST READING THE
28 DOCUMENT.

5340

1 A. FINE. LET'S JUST LEAVE IT AS

2 A.M.A.

3 Q. GOOD.

4 "OUR MEDICAL RESEARCH
5 SUPPORT EFFORTS THROUGH TOBACCO -- I
6 AM SORRY -- COMMITTEE FOR TOBACCO
7 RESEARCH AND A.M.A., HAVE BEEN
8 CONFUSING AND CONTRADICTIONARY IN THE
9 PUBLIC EYE BECAUSE WE HAVE ON THE ONE
10 HAND PROCLAIMED THESE ENDEAVORS TO BE
11 AIMED AT, 'FINDING THE TRUTH ABOUT
12 SMOKING AND HEALTH,' AND AT THE SAME
13 TIME, DENIED THE EXISTENCE OF A
14 PROBLEM."

15 NEXT ONE.

16 "THE FACT THAT A
17 MULTI-BILLION DOLLAR INDUSTRY HAS PUT
18 UP 30 MILLION DOLLARS FOR THIS OVER A
19 TEN-YEAR PERIOD CANNOT BE IMPRESSIVE
20 TO A PUBLIC WHICH, AT THE SAME TIME,
21 IS TOLD WE SPEND UPWARDS OF 300
22 MILLION DOLLARS IN ONE YEAR ON
23 ADVERTISING."

24 DO YOU SEE THAT?

25 A. YES, I DO.

26 Q. 30 MILLION DOLLARS OVER A TEN-YEAR
27 PERIOD FOR RESEARCH IS HOW MUCH PER YEAR?

28 A. THREE MILLION.

5341

1 Q. 302 MILLION DOLLARS, WHICH IS WHAT
2 YOU SAID WAS FUNNELED INTO T.I.R.C. AND C.T.R.,
3 THAT'S YOUR FIGURE, ISN'T IT, 302?

4 A. IT WAS 300 PLUS, YES.

5 Q. 302 MILLION DOLLARS, WASN'T IT?

6 A. 300 PLUS MILLION DOLLARS WAS ON OUR
7 DEMO.

8 Q. WHAT DEMO WAS THAT?

9 A. THE DEMONSTRATIVE WE HAD EARLIER.

10 Q. SO THE DEMONSTRATIVE YOU SHOWED THE
11 JURY SAID 300 PLUS MILLION DOLLARS?

12 A. RIGHT. AND WE ARE TALKING ABOUT
13 302 MILLION. SO WE ARE IN THE SAME BALLPARK.

14 Q. WELL, HANG ON. HANG ON. I JUST
15 HAD IT.

16 HERE, TAKE A LOOK AT PAGE 67 OF
17 YOUR DEPOSITION.
18 A. YES, 302 AND 300 PLUS MILLION ARE
19 ABOUT THE SAME NUMBER.
20 Q. 302 IS 302. ANYWAY, 302 MILLION
21 DOLLARS; RIGHT?
22 A. CORRECT.
23 Q. AND THAT MONEY WAS SPENT BETWEEN
24 1954 AND 1997, I THINK YOU SAID?
25 A. YES, I DID. YES, I DID.
26 Q. HOW MANY YEARS IS THAT?
27 A. WHAT IS IT, ABOUT 25 YEARS, ABOUT,
28 WHATEVER THE NUMBERS ARE.
5342
1 Q. 43 YEARS.
2 43 INTO 302?
3 A. A LITTLE LESS, A LITTLE LESS THAN
4 10 MILLION A YEAR.
5 Q. 43 INTO 302?
6 A. 43 YEARS INTO 302, IT'S A LITTLE
7 LESS THAN 10 MILLION, NINE MILLION, ABOUT 9
8 MILLION, 10 MILLION A YEAR.
9 DOESN'T THAT WORK OUT?
10 Q. NO, I DON'T THINK SO.
11 A. I AM SORRY, I AM RATTLED UP HERE
12 AND I CAN'T DO MATH, SORRY.
13 WHY DON'T YOU TELL ME WHAT THE
14 NUMBER IS.
15 Q. WELL, 7 FOURS ARE 28. SO IF IT WAS
16 SEVEN MILLION BUCKS A YEAR FOR 40 YEARS, YOU WOULD
17 HAVE 280 MILLION. SO I AM THINKING IT IS A LITTLE
18 MORE THAN 7. BUT I HAVEN'T DONE IT. YOU WANT ME
19 TO DO IT?
20 A. WOULD YOU PLEASE.
21 Q. SURE. WELL, IT LOOKS LIKE 7 TIMES
22 43 --
23 A. ABOUT 7 MILLION A YEAR, YES.
24 Q. IS 301, SO IT'S ALMOST TO THE
25 PENNY, SEVEN MILLION BUCKS A YEAR.
26 A. YES, SORRY.
27 Q. SO THAT'S THE AMOUNT OF MONEY THAT
28 WAS FUNNELED INTO THE T.I.R.C. AND THE C.T.R. BY
5343
1 THE TOBACCO INDUSTRY?
2 A. ON AVERAGE, YES.
3 Q. I AM GOING TO SHOW YOU A COUPLE
4 MORE DOCUMENTS THAT YOU WERE GIVEN TO REVIEW AND
5 ASK WHAT ROLE, IF ANY, THESE PLAYED IN YOUR
6 OPINION. HERE'S 10029.
7
8 * (EXHIBIT 10,029, ARTICLE,
9 MARKED FOR I.D.)
10
11 THE WITNESS: COULD I LOOK AT THE
12 ORIGINAL, PLEASE.
13 MR. PIUZE: YES.
14 Q BY MR. PIUZE: THIS WAS A REYNOLDS
15 DOCUMENT, WASN'T IT?
16 A. THAT'S WHAT IT SAYS AT THE TOP, BUT
17 MR. PIUZE --
18 Q. YES.
19 A. I DON'T RECALL REVIEWING THIS
20 PARTICULAR ARTICLE.

21 Q. OH.
22 HANG ON ONE SECOND, PLEASE. I WILL
23 MOVE ON TO THE NEXT ONE AND I WILL COME BACK TO
24 THAT.
25 THAT WAS ON YOUR RELIANCE LIST,
26 WASN'T IT?
27 A. IF IT WAS, IT'S ONE THING THAT I
28 DID NOT READ THROUGH AND I AM SORRY THAT IT WAS ON
5344
1 MY RELIANCE LIST. IT MUST HAVE BEEN AN ERROR.
2 Q. WELL, LET ME CHECK OUT THE NEXT ONE
3 TOO THEN BEFORE I PUT IT UP.
4 YES.
5 A. I RECALL READING SOMETHING ABOUT A
6 GENTLEMEN'S AGREEMENT. BUT I CANNOT TELL YOU THAT
7 THIS IS THE DOCUMENT THAT I LOOKED AT. AND IF IT
8 IS ON MY RELIANCE LIST, I AM SORRY THAT IT JUST
9 DOES NOT RING A BELL WITH ME.
10 Q. LET'S BACK UP TO THE LAST ONE. WE
11 WILL TAKE IT ONE STEP AT A TIME.
12 THIS LAST DOCUMENT THAT I HAVE
13 MARKED 10,029, DO YOU SEE WHERE THAT IS RIGHT ON
14 THIS RELIANCE LIST YOU GAVE US AT THE DEPOSITION?
15 A. YES, I DO.
16 Q. AND YOU TOLD US THAT YOU REVIEWED
17 ALL THOSE DOCUMENTS IN PREPARATION FOR YOUR
18 TESTIMONY?
19 A. WHAT I TOLD -- THIS IS THE RELIANCE
20 LIST HERE, IS ONE THAT WE PUT TOGETHER. I DID NOT
21 GO THROUGH AND PUT IN ALL OF THESE NUMBERS IN HERE.
22 AND I AM SORRY THAT IF IT'S ON MY RELIANCE LIST, I
23 MAY HAVE IT IN MY POSSESSION, BUT I DO NOT RECALL
24 REVIEWING THIS DOCUMENT.
25 Q. WHEN YOU SAY "WE PUT IT ON THE
26 RELIANCE LIST," WHO IS "WE"?
27 A. I HAD MR. MICHAELS GO THROUGH THE
28 MATERIALS I HAD IN MY HOME.
5345
1 Q. THESE ARE THE MATERIALS IN YOUR
2 HOME THAT YOU HAVE BEEN GIVEN OVER THE COURSE OF A
3 COUPLE YEARS THAT TAKE UP AN ENTIRE SHELF OF YOUR
4 ENTIRE DEN IN YOUR HOME; RIGHT?
5 A. IT TAKES UP AN ENTIRE BOOKCASE
6 ACROSS THE ENTIRE BACK WALL IN MY HOME. IT'S NOT
7 JUST ONE SHELF. IT'S A HUGE AMOUNT OF MATERIAL I
8 HAVE SITTING IN MY OFFICE.
9 Q. ALL RIGHT.
10 A. YES.
11 Q. SO THE RELIANCE LIST WAS PUT
12 TOGETHER BY MR. MICHAELS FOR YOU?
13 A. HE HELPED ME GO THROUGH AND I GAVE
14 HIM ALL THE MATERIALS THAT WERE LYING IN MY OFFICE.
15 Q. YOU READ ALL THOSE MATERIALS,
16 DIDN'T YOU?
17 A. AGAIN, THIS PARTICULAR ARTICLE I
18 HAVE NO RECOLLECTION HAVING READ. IF IT IS ON MY
19 RELIANCE LIST, I DON'T KNOW WHETHER THAT'S AN ERROR
20 OR I JUST DIDN'T READ IT. AND I APOLOGIZE FOR
21 THAT.
22 Q. HOW LONG -- I AM NOT ON YOUR DEPO
23 ANY MORE. THIS IS A BIGGER QUESTION. HOW LONG
24 HAVE YOU SPENT DOING ALL OF THIS STUFF, GOING
25 THROUGH ALL OF THAT STUFF THAT TAKES UP AN ENTIRE

26 BOOK CASE ON AN ENTIRE WALL OF YOUR STUDY?
27 A. I STARTED THIS PROJECT AT THE END
28 OF 1998.
5346
1 Q. HOW LONG HAVE YOU SPENT?
2 A. IN TERMS OF HOURS?
3 Q. SURE.
4 A. MAYBE ABOUT, MAYBE ABOUT --
5 SOMEWHERE BETWEEN 100 AND 200 HOURS.
6 I CAN'T TELL YOU BETTER THAN THAT.
7 Q. WELL, AS OF THE -- BEFORE YOU EVER
8 HAD YOUR DEPOSITION TAKEN HERE, YOU TOLD US THAT
9 YOU HAVE DONE, I KNOW HOW MUCH YOU BILLED, AND I
10 THINK THAT WAS \$52,000 BEFORE YOU EVER STARTED WITH
11 THIS CASE; RIGHT?
12 A. CORRECT.
13 Q. AND YOUR HOURLY IS WHAT?
14 A. 300.
15 Q. DO YOU WANT TO DO IT?
16 A. NO. WOULD YOU DO IT.
17 Q. I THINK IT'S AROUND 170 HOURS.
18 A. RIGHT.
19 Q. IN ROUND NUMBERS, HOW MUCH SINCE
20 THEN?
21 HOW MUCH TIME HAVE YOU SPENT SINCE
22 YOU STARTED WITH THIS CASE?
23 A. I THINK PROBABLY THERE'S BEEN
24 ANOTHER HUNDRED HOURS, BUT I AM NOT SURE.
25 Q. I WILL TAKE THAT DOCUMENT NOW.
26 THIS IS THE ONE ABOUT THE GENTLEMEN'S AGREEMENT
27 HERE. DO YOU WANT TO TALK ABOUT THIS ONE?
28 A. I RECALL SOMETHING ABOUT A
5347
1 GENTLEMAN'S AGREEMENT AND I WILL DO THE BEST I CAN.
2 MR. CARLTON: MAY I SEE THE DOCUMENT.
3 MR. PIUZE: SURE, ABSOLUTELY. WHEN I GET
4 IT BACK.
5 Q BY MR. PIUZE: I AM GOING TO GIVE
6 THAT DOCUMENT TO MR. CARLTON, SO BEFORE I START
7 DISCUSSING IT WITH YOU, TELL THE JURY WHAT YOUR
8 UNDERSTANDING OF THE --
9 A. JUST A MINUTE.
10 Q. -- OF THE GENTLEMEN'S AGREEMENT IS,
11 PLEASE.
12 A. MY RECOLLECTION OF THE GENTLEMEN'S
13 AGREEMENT IS I DIDN'T KNOW WHAT THE GENTLEMEN'S
14 AGREEMENT WAS. AND, AGAIN, THIS IS SOMETHING
15 THAT'S GOING ON, I PRESUME, WITHIN THE TOBACCO
16 COMPANIES.
17 IT DIDN'T HAVE, IN MY MIND, ANY
18 IMPACT ON MY ASSESSMENTS OF THE RESEARCH PROGRAM
19 FOR THE COUNCIL OF TOBACCO RESEARCH.
20 Q. DID YOU FIND OUT, AS YOU WENT
21 THROUGH THE STUFF, WHAT THE GENTLEMEN'S AGREEMENT
22 WAS?
23 A. I ASKED MR. MICHAELS WHAT THAT WAS.
24 BUT, YEAH, WITHOUT THEY FURTHER DOCUMENTATION ON
25 WHAT A GENTLEMEN'S AGREEMENT IS, AND AGAIN, THIS IS
26 TAKING PLACE IN THE TOBACCO COMPANIES AND I FELT IT
27 WAS NOT, IT HAD NO IMPACT ON MY TRYING TO ASSESS
28 THE RESEARCH PROGRAM.
5348
1 AND SO I DIDN'T BOTHER TO PURSUE

2 WHAT THIS GENTLEMEN'S AGREEMENT WAS ALL ABOUT
3 BECAUSE IT REALLY DIDN'T IMPACT ON THE RESEARCH
4 PROGRAM AND C.T.R.

5 Q. THE ONE THAT I MENTIONED WAS
6 10,029. I HAVE TAKEN DOWN AND PUT IT AWAY. IT'S
7 GONE.

8 THIS IS THE NEXT ONE, 10,030. THIS
9 IS THE ONE THAT DEALS WITH THE GENTLEMEN'S
10 AGREEMENT.

11
12 * (EXHIBIT 10,030, DOCUMENT,
13 MARKED FOR I.D.)

14
15 Q BY MR. PIUZE: NOW, DECEMBER 9,
16 1981, RJR -- LET ME READ THIS FOR YOU.
17 "INFORMATION WAS OBTAINED
18 THAT PHILIP MORRIS-U.S.A. DOES NOT
19 LIVE UP TO THE ALLEGED GENTLEMEN'S
20 AGREEMENT OF NOT HAVING ANIMAL
21 LABORATORY FACILITIES ON THEIR
22 PREMISES IN THIS COUNTRY. PHILIP
23 MORRIS, INDEED, HAS HAD SUCH
24 FACILITIES FOR AT LEAST THREE TO FOUR
25 YEARS AND CONTINUES TO OPERATE THEM.
26 THIS INFORMATION WAS COMMUNICATED TO
27 ALL CONCERNED."

28 LET ME STOP THERE BEFORE I GO TO
5349

1 THE NEXT POINT.
2 IN ALL OF THE READING THAT YOU HAVE
3 DONE AND ALL OF THE STUFF THAT'S BEEN GIVEN, DO YOU
4 IN ALL OF THE ACCESS YOU HAVE HAD TO MR. MICHAELS,
5 HAVE YOU COME ACROSS DOCUMENTATION THAT THE MAJOR
6 TOBACCO COMPANIES HAD AGREED AMONG THEMSELVES THAT
7 THEY WOULD CONDUCT NO ANIMAL LABORATORY EXPERIMENTS
8 ON THE UNITED STATES OF AMERICA SOIL?

9 A. I DON'T RECALL REVIEWING ANY
10 DOCUMENTS WITH THAT TYPE OF STATEMENT.
11 I MEAN, I DO KNOW THAT THERE WAS
12 SOMETHING CALLED A GENTLEMAN'S AGREEMENT AND I DID
13 NOT KNOW WHAT THE SPECIFICS WERE ABOUT IT. AGAIN,
14 THIS HAS TO DO WITH SOMETHING GOING ON WITH PHILIP
15 MORRIS AND THE OTHER TOBACCO COMPANIES. IT DIDN'T
16 HAVE AN IMPACT ON THE RESEARCH PROGRAM OF C.T.R.

17 Q. AND THEN THE SECOND HIGHLIGHTED
18 PORTION.

19 "A NUMBER OF RESEARCH
20 PROPOSALS TO BE GRANTED - OR NOT
21 GRANTED - BY THE C.T.R. WERE ASSESSED
22 AT THE REQUEST OF THE LEGAL
23 DEPARTMENT."

24 DO YOU RECALL SEEING THIS?

25 A. LIKE I SAID, I DON'T RECALL THIS
26 PARTICULAR MEMO. I DID RECALL READING SOMETHING
27 ABOUT A GENTLEMAN'S AGREEMENT.

28 Q. OKAY. THANKS. HERE, LET ME GET
5350

1 RID OF THE GENTLEMEN'S AGREEMENT.
2 DID YOU COME ACROSS DOCUMENTS IN
3 WHICH THE BIG PLAYERS, LIKE RJR AND PHILIP MORRIS,
4 WERE HAVING THEIR LEGAL DEPARTMENTS ASSESS WHETHER
5 RESEARCH MONEY WAS GOING TO BE GRANTED OR NOT
6 GRANTED TO THE C.T.R.?

7 A. NO, I DIDN'T. LIKE I SAID, THIS
8 PARTICULAR DOCUMENT I DON'T RECALL REVIEWING. I DO
9 RECALL SOMETHING ABOUT THE GENTLEMEN'S AGREEMENT.
10 THE BOTTOM LINE IS THAT WE DON'T KNOW IN THIS
11 STATEMENT WHY THOSE GRANTS WERE BEING ASSESSED.
12 AND WE HAVE ALREADY GONE THROUGH,
13 THE FACT IS THAT THE S.A.B. AND THE DIRECTOR OF THE
14 S.A.B., THE RESEARCH DIRECTOR, WAS NOT GOING TO
15 HAVE ANY DEALINGS WITH THE LEGAL COUNCIL TELLING
16 THEM WHAT THEY COULD FUND AND WHAT THEY COULD NOT
17 FUND.

18 Q. EXCEPT WHEN IT CAME TO CONDENSATE
19 FRACTION RESEARCH TO DETERMINE WHAT THE BAD STUFF
20 WAS IN TOBACCO SMOKE?

21 A. THE BOTTOM LINE IS THAT RESEARCH
22 WAS FUNDED. THE S.A.B. WAS NOT HEEDING -- WHOEVER
23 SAID NOT TO FUND THAT, THEY IGNORED THAT. AND THEY
24 FUNDED CONDENSATE RESEARCH.

25 Q. HERE'S 10,031.

26
27 * (EXHIBIT 10,031, PRESS
28 RELEASE, MARKED FOR I.D.)

5351

1 Q BY MR. PIUZE: AND THIS IS A PRESS
2 RELEASE FROM THE TOBACCO INSTITUTE DATED MARCH
3 17TH, 1983.

4 AND THERE'S THE MINNESOTA NUMBER
5 DOWN THERE ON THE BOTTOM. OKAY?

6 A. OKAY.

7 Q. LET ME TAKE THAT FROM YOU, PLEASE.
8 THIS ONE YOU REMEMBER REVIEWING;
9 RIGHT?

10 A. I DON'T REMEMBER SPECIFICALLY
11 REVIEWING IT, NO, I DON'T.

12 Q. HOW MANY DOCUMENTS DID YOU REVIEW;
13 10,000? SERIOUSLY.

14 A. SERIOUSLY, AN AWFUL LOT. THESE
15 DOCUMENTS THAT YOU HAVE BEEN SHOWING ME HAVE TO DO
16 WITH THE WORKINGS OF PHILIP MORRIS AND LORILLARD
17 AND RJR. THESE HAVE TO DO WITH TOBACCO COMPANY
18 ISSUES.

19 I WAS ASKED TO REVIEW THE RESEARCH
20 PROGRAM OF C.T.R. AND SO MY REVIEWS OF C.T.R. HAD
21 TO DO WITH GOING THROUGH THE S.A.B. MINUTES, TRYING
22 TO LOOK AT THE RESEARCH THAT WAS FUNDED, TRYING TO
23 FIT THAT RESEARCH INTO CONTEXT, BEING ABLE TO
24 UNDERSTAND AND TO BE ABLE TO EXPLAIN HOW CANCER
25 OCCURS AND HOW DOES THAT FIT INTO THE ISSUES OF
26 SMOKING.

27 AND SO THESE DOCUMENTS ALL REALLY
28 WERE NOT PART OF MY KEY FOCUS IN ASKING WHAT'S
5352

1 GOING ON WITH C.T.R.

2 I WANTED TO KNOW WHAT TYPE OF
3 PROGRAM WERE THEY ACTUALLY RUNNING, WHAT TYPE OF
4 GRANTS WERE BEING FUNDED. WERE THE RESEARCHERS
5 CAPABLE OF CARRYING OUT THEIR RESEARCH WITHOUT
6 INTERFERENCE BY C.T.R.

7 WHAT IS THE EVIDENCE THAT C.T.R.
8 ALLOWED RESEARCHERS TO PUBLISH THE RESULTS
9 UNHINDERED. AND THAT'S WHY I HAD WENT THROUGH WHAT
10 CONSISTS OF BASICALLY A SERIES OF GRANTS BOTH
11 FUNDED AND NON-FUNDED, WHICH COVERS THE BOTTOM HALF

12 OF MY STUDY.
13 Q. OKAY.
14 A. SO, YOU KNOW, I DON'T HAVE -- I
15 DON'T HAVE THESE DOCUMENTS MEMORIZED.
16 Q. THAT'S OKAY.
17 A. YOU KNOW, AND I TEACH MY STUDENTS
18 THAT IT'S MORE IMPORTANT TO BE ABLE TO ANALYZE
19 THINGS RATHER THAN MEMORIZE EVERY SINGLE BIT OF
20 FACT THAT COMES ACROSS YOUR DESK.
21 Q. I AM NOT ASKING YOU TO MEMORIZE
22 THESE.
23 A. WELL, IT FEELS LIKE IT. IT REALLY
24 DOES FEEL LIKE IT.
25 Q. WELL, HERE'S THE POINT.
26 A. OKAY.
27 Q. MR. MICHAELS GAVE YOU THESE, THEY
28 ARE ON YOUR RELIANCE LIST. AND I AM GOING TO GO
5353
1 THROUGH THEM AND ASK YOU WHY DIDN'T YOU TAKE THESE
2 INTO ACCOUNT BEFORE GIVING YOUR OPINIONS. OKAY?
3 A. I DID TAKE THESE THINGS INTO
4 ACCOUNT.
5 Q. LET'S LOOK AT THIS ONE.
6 THIS IS A PRESS RELEASE FROM A
7 TOBACCO INSTITUTE. AND THIS IS ON MARCH 17, 1983,
8 AND SO WE ARE TALKING --
9 A. ARE YOU GOING TO ASK ME TO DO MORE
10 MATH?
11 Q. NO, I AM GOING TO DO IT MYSELF. WE
12 ARE TALKING 33 YEARS AFTER THE DOLL AND HILL STUDY
13 ORIGINALLY CAME OUT AND THE WYNDER AND GRAHAM STUDY
14 ORIGINALLY CAME OUT; RIGHT?
15 A. YES.
16 Q. 83 MINUS 50, BECAUSE THEY CAME OUT
17 IN 1953, 33 YEARS LATER; RIGHT?
18 A. YEAH, IN THE '50'S, IN '53, YES.
19 Q. (READING)
20 "A BATTERY OF SCIENTIFIC
21 EXPERTS TOLD A CONGRESSIONAL
22 SUBCOMMITTEE TODAY THAT, 'FINDINGS,'
23 SET FORTH IN A BILL TO CHANGE
24 CIGARETTE WARNINGS ARE, AS ONE OF THEM
25 PUT IT, UNSUBSTANTIATED AND
26 MISLEADING.
27 "DOCTOR THEODORE BLAU THE
28 PAST PRESIDENT OF THE AMERICAN
5354
1 PSYCHOLOGICAL ASSOCIATION, SEVERELY
2 CRITICIZED THE NEW U.S. PUBLIC HEALTH
3 SERVICE PAMPHLET WHICH CALLS SMOKING
4 AN ADDICTIVE BEHAVIOR. THE PAMPHLET
5 IS BASED ON A STATEMENT A YEAR AGO BY
6 THE DIRECTOR OF THE NATIONAL INSTITUTE
7 OF DRUG ABUSE.
8 "ASKING THOSE AGENCIES
9 WHETHER SMOKING IS ADDICTIVE, BLAU
10 SAID, IS AKIN TO ASKING THE GOAT TO
11 GUARD THE LETTUCE PATCH. HE SAID THE
12 GOVERNMENT OFFICIALS EMPHASIZE ONLY
13 THE RESEARCH FINDINGS THAT ARE
14 CONSISTENT WITH THAT VIEW."
15 NOW, DID YOU FIND, IN GOING
16 THROUGH THE DOCUMENTS THAT YOU DID,

17 JUST AS BACKGROUND, SOME SORT OF A
18 PATTERN THAT THE INDUSTRY AND THE
19 GOVERNMENT WAS SORT OF AT ODDS WITH
20 EACH OTHER, NOT JUST BEFORE 1964, BUT
21 ALSO THROUGHOUT THE '60'S, '70'S AND
22 CERTAINLY INTO THE '80'S, DID YOU FIND
23 THAT PATTERN?
24 A. THAT THE GOVERNMENT AND WHO WERE AT
25 ODDS?
26 Q. THE TOBACCO INDUSTRY.
27 A. THE TOBACCO INDUSTRY, I REALLY
28 DIDN'T PAY MUCH MIND ABOUT WHAT THE POSITION OF THE
5355
1 TOBACCO INDUSTRY WAS.
2 Q. OKAY.
3 A. I DID PAY MORE ATTENTION TO WHAT
4 THE SURGEON GENERAL'S POSITION IS.
5 Q. WHO IS DR. SHELDON SOMMERS?
6 A. DR. SHELDON SOMMERS WAS THE
7 RESEARCH DIRECTOR.
8 Q. OF?
9 A. C.T.R.
10 Q. (READING)
11 "DR. SHELDON SOMMERS, THE
12 RESEARCH DIRECTOR OF THE C.T.R., THE
13 UNIVERSITY OF SOUTHERN CALIFORNIA
14 PATHOLOGIST, AND HIRAM LANGSTON,"
15 LET'S STOP THERE.
16 WHO WAS HE?
17 A. I DON'T KNOW.
18 Q. "PAST PRESIDENT OF THE AMERICAN
19 ASSOCIATION FOR THORACIC," THORACIC IS HERE
20 (INDICATING); RIGHT?
21 A. YES, I KNOW. I DON'T KNOW HIRAM
22 LANGSTON PERSONALLY NOR DO I HAVE HIS C. V. I CAN
23 READ THAT HE WAS THE PAST PRESIDENT OF THE AMERICAN
24 ASSOCIATION FOR THORACIC SURGERY.
25 Q. (READING)
26 "BOTH DISAGREE WITH THE
27 PROPOSED FINDING IN THE BILL THAT
28 CIGARETTE SMOKING IS AN ESTABLISHED
5356
1 CAUSE OF LUNG CANCER.
2 "SOMMERS SAID THAT THE
3 COUNCIL FOR TOBACCO RESEARCH OF WHICH
4 HE IS SCIENTIFIC DIRECTOR, HAS
5 SPONSORED A MASSIVE RESEARCH PROGRAM
6 TO INVESTIGATE WHETHER SMOKING CAUSES
7 LUNG CANCER IN ANIMALS. HE NOTED THAT
8 DESPITE YEARS OF CIGARETTE SMOKE
9 EXPOSURE, NO ANIMAL DEVELOPED A, 'CASE
10 OF THE HUMAN TYPE CANCER MOST OFTEN
11 BLAMED ON SMOKING.'" CLOSE QUOTES.
12 LET'S JUST STOP THERE.
13 DO YOU HAVE AN UNDERSTANDING OF
14 WHAT HE MEANT BY NO ANIMAL DEVELOPED A HUMAN TYPE
15 CASE OF CANCER?
16 A. YES, I DO.
17 Q. WHAT'S A HUMAN TYPE CASE OF CANCER?
18 A. WHAT THEY ARE REFERRING BACK TO IS
19 THE SQUAMOUS CELL CARCINOMA OR WE OFTENTIMES REFER
20 TO THAT AS THE BRONCHIOGENIC CARCINOMA.
21 AND THAT STATEMENT IS TRUE, THAT WE

22 DO NOT HAVE AN ANIMAL MODEL IN WHICH, UPON
23 INHALATION OF SMOKE, THAT THE ANIMAL DEVELOPS LUNG
24 CANCER OF THE SORT THAT IS ASSOCIATED WITH
25 CIGARETTE SMOKE.
26 Q. DID YOU JUST SAY WE DO NOT HAVE?
27 A. WE DO NOT HAVE THAT MODEL. AND THE
28 PROBLEM IS, IT'S BEEN AN EXTRAORDINARILY
5357
1 FRUSTRATING, FRUSTRATING PROBLEM IN THE SCIENTIFIC
2 COMMUNITY. THE FACT THAT WE DON'T HAVE THAT MODEL.
3 SO IT MEANS THAT WHEN WE LOOK AT
4 THOSE EPIDEMIOLOGY STUDIES IN WHICH 20 PERCENT OF
5 THE PEOPLE DEVELOP LUNG CANCER OF THOSE WHO SMOKE
6 AND 80 PERCENT DON'T, WE HAVE NO WAY OF FIGURING
7 OUT, THROUGH ANIMAL MODEL SOURCES, OF WHY IT IS
8 THAT, YOU KNOW, WHY IS THERE THAT DISCREPANCY.
9 AND THAT HAS BEEN ONE OF THE THINGS
10 THAT HAS BEEN A REAL PROBLEM IN THIS TYPE OF
11 INVESTIGATION.
12 TO THAT END, C.T.R. SPENT A LOT OF
13 MONEY IN TRYING TO DEVELOP OTHER WAYS OF BEING ABLE
14 TO BEGIN TO TRY TO MIMIC ASPECTS OF THE DEVELOPMENT
15 OF LUNG CANCER AND THAT HAS BEEN ONE OF THE REAL
16 STRENGTHS OF THE BIOMEDICAL, THE BIOMEDICAL
17 PROGRAM.
18 Q. OKAY, THANKS.
19 NOW, SO WHAT YOU ARE TELLING THE
20 JURY NOW IS THAT WHAT DR. SOMMORS AND DR. LANGSTON
21 SAID TO THE UNITED STATES CONGRESS IN 1983, THAT
22 DESPITE YEARS OF SMOKE EXPOSURE, NO ANIMAL
23 DEVELOPED A, QUOTE, CASE OF HUMAN TYPE CANCER MOST
24 OFTEN BLAMED ON SMOKING, CLOSE QUOTES, IS ALSO TRUE
25 TODAY, MAY -- I AM HAVING SO MUCH FUN, I HAVE LOST
26 TRACK OF THE DAY -- BUT MAY 11 --
27 A. WHATEVER IT IS.
28 Q. -- 2001, IT IS STILL TRUE; RIGHT?
5358
1 A. AS OF THE END OF MY LITERATURE
2 SEARCHING, WHICH WILL PROBABLY HAVE BEEN APRIL 1ST
3 OF THIS YEAR, THAT IS TRUE.
4 Q. OKAY.
5 SO WHATEVER REASON HE WAS USING TO
6 THE CONGRESS, WE ARE GOING TO GET TO WHAT HIS
7 BOTTOM LINE WAS, BUT WHATEVER REASON HE WAS USING
8 IN '83 STILL EXISTS TODAY; RIGHT?
9 A. I DON'T KNOW ALL OF HIS SPECIFIC
10 REASONS BUT THE FACT IS THAT THAT STATEMENT IS
11 CORRECT, WE STILL, WE DID NOT HAVE AND WE STILL DO
12 NOT HAVE AN ANIMAL MODEL SYSTEM IN WHICH THE ANIMAL
13 DEVELOPS THE TYPE OF LUNG CANCER WHICH IS
14 ASSOCIATED WITH SMOKING.
15 Q. WELL, WE DO HAVE AN ANIMAL MODEL
16 SYSTEM, DON'T WE?
17 A. NO. WE HAVE ANIMAL MODEL SYSTEM --
18 Q. EXCEPT FOR HUMANS.
19 A. WE DON'T --
20 Q. HANG ON.
21 A. WE DON'T CONSIDER HUMANS AN ANIMAL
22 MODEL SYSTEM. PLEASE.
23 Q. WE DO HAVE, WE DO HAVE SOMETHING
24 THAT MOVES AND WALKS AND BREATHES AND LIVES AND HAS
25 KIDS, ET CETERA, THAT ABSOLUTELY, UNEQUIVOCALLY,
26 WITHOUT ANY QUESTION AT ALL, GETS THIS KIND OF

27 CANCER FROM SMOKING, DON'T WE?
28 A. WE DO NOT CONSIDER HUMANS AN ANIMAL
5359
1 MODEL SYSTEM.
2 Q. OKAY.
3 LET ME KEEP GOING.
4 "HE ALSO COMMENTED ON AN
5 EXPERIMENT HIGHLY PUBLICIZED BY THE
6 AMERICAN CANCER SOCIETY IN WHICH
7 RESEARCHERS CLAIM TO HAVE INDUCED SUCH
8 CANCERS IN BEAGLE DOGS. THIS IS NOT
9 TRUE HE DECLARED. LANGSTON TESTIFIED
10 THAT INTERPRETATIONS OF THE REPORTED
11 STATISTICAL ASSOCIATION BETWEEN
12 SMOKING AND LUNG CANCER ARE
13 INCONSISTENT WITH THE CLINICAL
14 REALITIES OF THE DISEASE."
15 NOW, LET'S STOP THERE FOR A SECOND.
16 THIS STATISTICAL ASSOCIATION,
17 THAT'S THE EPIDEMIOLOGICAL STUDIES THAT YOU
18 DISCUSSED EARLIER; RIGHT?
19 A. I DON'T KNOW WHO LANGSTON IS AND I
20 DON'T KNOW WHAT STUDIES HE IS REFERRING TO HERE.
21 Q. OKAY. OKAY, NOW, EYSENCK, DO YOU
22 KNOW WHO THAT IS?
23 A. WELL, IT SAYS UP THERE HE IS A
24 PATHOLOGIST -- PSYCHOLOGIST AT THE UNIVERSITY OF
25 LONDON.
26 Q. BESIDES WHAT IS WRITTEN THERE, FROM
27 YOUR BACKGROUND?
28 A. NO.
5360
1 Q. RESEARCH?
2 A. NO, I DIDN'T NOT FOLLOW ANYTHING --
3 EYSENCK -- IS THAT HOW YOU PRONOUNCE IT?
4 Q. (READING)
5 "EYSENCK, A PSYCHOLOGIST AT
6 THE UNIVERSITY OF LONDON, DECLARED
7 THAT THE FINDINGS IN THE BILL ARE NOT
8 SCIENTIFICALLY VALID. REGARDING LUNG
9 CANCER, HE SAID HIS OWN STUDIES
10 SUGGEST A SIGNIFICANT PERSONALITY
11 FACTOR."
12 NOW, THAT'S THAT.
13 A. WHAT'S A PERSONALITY FACTOR?
14 Q. YEAH, AS FAR AS LUNG CANCER IS
15 CONCERNED, WHAT'S A PERSONALITY FACTOR,
16 DO YOU KNOW?
17 A. IT HAS BEEN SUGGESTED THAT CERTAIN
18 PERSONALITY TRAITS MIGHT BE CORRELATED WITH THE
19 DEVELOPMENT OF LUNG CANCER.
20 I DON'T KNOW THE QUALIFICATIONS OF
21 MR. EYSENCK. I DON'T KNOW WHAT STUDIES HE IS
22 TALKING TO.
23 THE FACT IS THAT TRYING TO
24 CORRELATE PERSONALITY FACTORS TO WHETHER OR NOT YOU
25 DEVELOP LUNG CANCER IF YOU SMOKE IS SOMETHING WHICH
26 IS EXTREMELY DIFFICULT. PEOPLE TRY TO FOLLOWUP ON
27 THAT.
28 TODAY, IN PART, BASED UPON WORK
5361
1 FUNDED BY C.T.R., WE DO HAVE A HANDLE ON WHAT SOME
2 OF THE GENETIC FACTORS ARE WHICH CONTRIBUTES TO THE

3 20 PERCENT OF THE INDIVIDUALS WHO DEVELOP LUNG
4 CANCER.
5 Q. LET'S STAY WITH PERSONALITY HERE
6 BECAUSE I AM GOING TO GO THROUGH THE END OF THIS
7 DOCUMENT. I HAVE ONE MORE TO GO AND I AM GOING TO
8 SIT DOWN AND BE DONE.

9 A. OH, NO.

10 Q. WELL, IF YOU HAVE A SPECIAL
11 REQUEST.

12 A. WELL, LET'S TALK ABOUT BEAGLES.

13 Q. (READING)

14 "THUS, IT IS ASSUMED, HE
15 SAID, THAT PEOPLE OF A CERTAIN
16 PERSONALITY ARE MORE LIKELY THAN
17 OTHERS TO DIE FROM LUNG CANCER,
18 IRRESPECTIVE OF SMOKING. IT IS ALSO
19 ASSUMED THAT PEOPLE OF A CERTAIN
20 PERSONALITY ARE MORE LIKELY TO SMOKE
21 THAN OTHERS."

22 NOW, DID YOU EVER ASK MR. MICHAELS
23 WHY HE GAVE YOU THIS PARTICULAR DOCUMENT?

24 A. I DON'T RECALL SPECIFICALLY ASKING
25 WHY HE GAVE ME THIS PARTICULAR DOCUMENT.

26 Q. HERE'S, I THINK, WHERE I END.

27 THIS WAS 1983 TO CONGRESS.

28 AND I'D LIKE TO GO BACK TO 1022.

5362

1 DO YOU SEE THIS, THIS IS MAY 1ST,
2 1972.

3 A. YES, I DO.

4 Q. AND THIS IS WITHIN THE TOBACCO
5 INSTITUTE, PANSER TO KORNEGAY. DO YOU REMEMBER
6 THIS ONE? WE TALKED ABOUT IT.

7 A. YES.

8 Q. THIS IS THE PART, THIS IS NINE
9 YEARS BEFORE THAT CONGRESSIONAL TESTIMONY.

10 THIS IS THE PART I WANT TO ASK YOU
11 ABOUT.

12 I WILL JUST READ IT OUT LOUD AND
13 THEN ASK A COUPLE OF OPINIONS FROM YOU.

14 "IN THE CIGARETTE

15 CONTROVERSY, THE PUBLIC, ESPECIALLY
16 THOSE WHO ARE PRESENT AND POTENTIAL
17 SUPPORTERS, E G, TOBACCO STATE
18 CONGRESSMAN AND HEAVY SMOKERS -- MUST
19 PERCEIVE, UNDERSTAND, AND BELIEVE IN
20 EVIDENCE TO SUSTAIN THEIR OPINIONS
21 THAT SMOKING MAY NOT BE THE CAUSAL
22 FACTOR.

23 "AS THINGS STAND, WE SUPPLY
24 THEM WITH TOO LITTLE IN THE WAY OF
25 READY MADE CREDIBLE ALTERNATIVES."
26 AND THEN HE LISTS THE ALTERNATIVES.

27 "TWO SUCH CREDIBLE
28 ALTERNATIVES EXIST. ONE, THE

5363

1 CONSTITUTIONAL HYPOTHESIS, I.E.,
2 PEOPLE WHO SMOKE TEND TO DIFFER
3 IMPORTANTLY FROM PEOPLE WHO DO NOT
4 SMOKE IN THEIR HEREDITY, IN
5 CONSTITUTIONAL MAKEUP, IN PATTERNS OF
6 LIFE AND IN THE PRESSURES UNDER WHICH
7 THEY LIVE.

8 "TWO, THE MULTI-FACTORIAL
9 HYPOTHESIS, I.E., AS SCIENCE ADVANCES,
10 MORE AND MORE FACTORS COME UNDER
11 SUSPICION AS CONTRIBUTING TO THE
12 ILLNESSES FOR WHICH SMOKING IS BLAMED;
13 AIR POLLUTION, VIRUSES, FOOD
14 ADDITIVES, OCCUPATIONAL HAZARDS AND
15 STRESSES.

16 "OUR 1970 PUBLIC OPINION
17 SURVEY SHOWED THAT A MAJORITY, 52
18 PERCENT, BELIEVED THAT CIGARETTES ARE
19 ONLY ONE OF THE MANY CAUSES OF THE
20 SMOKERS HAVING MORE ILLNESSES. IT
21 ALSO SHOWED THAT HALF OF THE PEOPLE
22 WHO BELIEVED THAT SMOKERS HAVE MORE
23 ILLNESSES THAN NON-SMOKERS ACCEPTED
24 THE CONSTITUTIONAL HYPOTHESIS AS THE
25 EXPLANATION.
26 "THUS, THERE ARE MILLIONS OF
27 PEOPLE WHO WOULD BE RECEPTIVE TO A NEW
28 MESSAGE STATING:

5364

1 "CIGARETTE SMOKING MAY NOT
2 BE THE HEALTH HAZARD THAT THE
3 ANTI-SMOKING PEOPLE SAY IT IS BECAUSE
4 OTHER ALTERNATIVES ARE AT LEAST AS
5 PROBABLE.

6 "THE ROPER PROPOSAL WOULD BE
7 A PERSUASIVE, IF NOT STRICTLY
8 SCIENTIFIC MEDIUM FOR THIS MESSAGE
9 WHICH WE HAVE DONE LITTLE TO DEVELOP
10 IN A SYSTEMATIC OR COMPREHENSIVE WAY."
11 OKAY, NOW, HAVING READ THAT, LET'S
12 JUMP UP TO 1983 HERE, NINE YEARS LATER, FOR
13 CONGRESS, REPRESENTATIVES OF THE TOBACCO -- I AM
14 SORRY, THE C.T.R., WHO IS THIS GUY FROM SOUTHERN
15 CALIFORNIA NOW, WHAT WAS HIS NAME, SOMMORS?

16 A. DR. SOMMORS. I DON'T KNOW IF HE
17 WAS FROM SOUTHERN CALIFORNIA, THOUGH.
18 Q. WELL, HE WAS FROM USC, IT HAD SAID
19 HERE, DIDN'T IT?

20 A. I DON'T KNOW. I DON'T HAVE WHERE
21 HE IS LOCATED AS PART OF SOMETHING I HAVE BEEN
22 MEMORIZING.

23 Q. HERE, DR. SHELDON SOMMORS, A USC
24 PATHOLOGIST?

25 A. OKAY.

26 Q. ANYWAY, SOMMERS, REMIND US, SOMMERS
27 WAS THE WHAT?

28 A. HE WAS ONE OF THE SCIENTIFIC

5365

1 DIRECTORS AT C.T.R.

2 Q. NINE YEARS AFTER THAT ROPER
3 PROPOSAL?

4 A. UH-HUH.

5 Q. FOR SELLING PEOPLE ALTERNATIVE
6 REASONS WHY THEY MIGHT BE GETTING SICK, OTHER THAN
7 TOBACCO, DIDN'T SOMMERS GET UP BEFORE CONGRESS NOW
8 AND SAY THAT, WE CAN'T REALLY BE SURE ABOUT ANY OF
9 THIS BECAUSE WE HAVEN'T BEEN ABLE TO PUT HUMAN
10 CANCER INTO AN ANIMAL LUNG?

11 MR. CARLTON: OBJECTION, HEARSAY.

12 THE COURT: DO YOU KNOW?

13 THE WITNESS: DO I KNOW THAT HE GOT UP IN
14 FRONT OF CONGRESS AND SAID THIS -- I WASN'T THERE
15 IN CONGRESS, SO I DON'T KNOW PRECISELY WHAT HE
16 SAID.
17 WE CAN ADDRESS WHAT IS SAID IN THIS
18 MEMO, THOUGH.
19 Q BY MR. PIUZE: YOU HAVE ALREADY
20 TOLD THE JURY THIS.
21 WE CAN'T PUT HUMAN CHEST CANCER
22 INTO AN ANIMAL CHEST, NO MATTER HOW MUCH SMOKE WE
23 FEED THE ANIMALS AND THAT'S VERY TROUBLESOME TO US.
24 MR. CARLTON: OBJECTION, MISCHARACTERIZES
25 THE TESTIMONY.
26 THE COURT: OVERRULED.
27 Q BY MR. PIUZE: RIGHT?
28 A. YES. I DID EXPLAIN THE PROBLEM OF
5366

1 THE ANIMAL MODEL SYSTEM.
2 Q. AND DIDN'T THE ROPER PROPOSAL ABOUT
3 THE CONSTITUTIONAL HYPOTHESIS COME UP ALSO, NINE
4 YEARS LATER, BEFORE THE UNITED STATES CONGRESS,
5 WHEN PEOPLE WHO TESTIFIED WITH THE C.T.R. BOSS, ONE
6 OF THE C.T.R. BOSSES SAID, THERE ARE PERSONALTIES
7 MORE THAN LIKELY TO DIE OF LUNG CANCER THAN OTHERS,
8 AND THERE ARE CERTAIN PERSONALITIES MORE LIKELY TO
9 SMOKE THAN OTHERS?
10 MR. CARLTON: OBJECTION, HEARSAY.
11 THE COURT: IF YOU KNOW.
12 THE WITNESS: THE FACT THAT YOU GOT THIS
13 PSYCHOLOGIST FROM LONDON WHO IS MAKING THOSE
14 STATEMENTS, I DON'T KNOW WHAT HIS RELATIONSHIP IS
15 TO C.T.R., IF ANY. AND WE NOW KNOW THAT ALTHOUGH
16 THE SO-CALLED CONSTITUTIONAL HYPOTHESIS, WHICH IS
17 THAT SMOKERS ARE GENETICALLY DIFFERENT FROM
18 NON-SMOKERS, I HAVE NO IDEA, AND I DON'T THINK
19 ANYONE HAS ANY IDEA WHETHER OR NOT THAT'S CORRECT.
20 I DOUBT THAT IT IS.
21 HOWEVER, OF THE PEOPLE WHO DO
22 SMOKE, 80 PERCENT DON'T DEVELOP LUNG CANCER AND 20
23 PERCENT DO, THE IDEA OF A GENETIC FACTOR, HOWEVER,
24 IS A VERY IMPORTANT ONE BECAUSE WE NOW KNOW, BASED
25 ON SOME OF THE STUDIES CARRIED OUT BY C.T.R.,
26 FUNDED BY C.T.R. THAT, IN FACT, THERE ARE VERY
27 SPECIAL GENES THAT IF YOU HAVE A PARTICULAR
28 VARIANT, YOU ARE MORE LIKELY TO DEVELOP LUNG CANCER
5367

1 IF YOU SMOKE.
2 Q. WASN'T -- EXCUSE ME, I APOLOGIZE.
3 GO AHEAD.
4 A. AND THE FACT IS THAT AS WE START TO
5 IDENTIFY THESE DIFFERENT GENES AND THEIR
6 VARIATIONS, WE WILL HAVE A MUCH BETTER
7 UNDERSTANDING OF WHAT IS IT THAT MAKES THAT 20
8 PERCENT OF THE POPULATION DIFFERENT FROM THE 80
9 PERCENT.
10 THIS DOES NOT ADDRESS THIS
11 SO-CALLED CONSTITUTIONAL HYPOTHESIS WHICH TRIES TO
12 MAKE THE DISTINCTION BETWEEN SMOKERS AND
13 NON-SMOKERS. WE ARE TALKING ABOUT, IF YOU SMOKE,
14 WHAT IS YOUR RISK OF DEVELOPING LUNG CANCER, HOW
15 ARE YOU GENETICALLY PREDISPOSED TO DEVELOPING LUNG
16 CANCER, AND CERTAINLY OTHER TYPES OF CANCER,
17 BECAUSE THAT'S A SPIN-OFF OF THE WORK THAT WAS

18 FUNDED BY C.T.R.
19 SO, YES, THERE IS A GENETIC
20 COMPONENT.
21 I DON'T BELIEVE ANYONE THINKS THAT
22 THERE IS A GENETIC COMPONENT AS TO WHETHER OR NOT
23 YOU SHOULD SMOKE. SO I WILL LEAVE IT AT THAT.
24 Q. WASN'T ONE OF THE CHIEF HANCHOES OF
25 THE C.T.R. APPEARING BEFORE THE UNITED STATES
26 CONGRESS, NINE YEARS AFTER THE ROPER PUBLIC OPINION
27 PROPOSAL; NAMELY, THAT WE FEED PEOPLE ALTERNATIVE
28 REASONS SO THAT THEY WILL GO ON SMOKING, AND DIDN'T
5368

1 HE SIT BEFORE THE U.S. CONGRESS NINE YEARS LATER
2 AND GIVE THE SAME EXACT TYPES OF TESTIMONY THAT
3 ROPER PROPOSED NINE YEARS EARLIER?
4 MR. CARLTON: OBJECTION, ARGUMENTATIVE,
5 MISCHARACTERIZES THE DOCUMENT.
6 THE COURT: IF YOU KNOW.
7 THE WITNESS: I WAS NOT THERE SO I DON'T
8 KNOW PRECISELY WHAT DR. SOMMORS SAID. BASED ON THE
9 DOCUMENT YOU SHOWED US, DR. SOMMORS SAID THAT WE DO
10 NOT HAVE AN ANIMAL MODEL SYSTEM IN WHICH AN ANIMAL
11 DEVELOPS HUMAN LUNG CANCER WHICH IS ASSOCIATED WITH
12 SMOKING.
13 THAT HAS BEEN AN EXTRAORDINARY
14 PROBLEM IN THE BIOMEDICAL FIELD. AND THE FACT IS
15 THAT IT IS CORRECT, WE DO NOT HAVE AN ANIMAL MODEL
16 SYSTEM SO HOW THE HECK ARE WE SUPPOSED TO -- HOW
17 ARE WE SUPPOSED TO FIGURE OUT WHAT IS CAUSING, WHAT
18 IS CAUSING LUNG CANCER. AND WHEN CONFRONTED WITH
19 THAT DILEMMA, C.T.R. FUNDED A LOT OF BIOMEDICAL
20 RESEARCH IN ORDER TO TRY TO AT LEAST START TO BREAK
21 THE PROBLEM DOWN.
22 FOR EXAMPLE, THEY WERE ABLE TO SHOW
23 THAT IF YOU SMOKE -- IF RATS INHALE SMOKE, THAT
24 THEY START TO FORM WHAT WE CALL DNA ADDUCTS, THAT
25 IS, HAVING CHEMICALS GLOM ON TO THE DNA. AND WE
26 KNOW FROM C.T.R. FUNDED RESEARCH, THAT'S ONE OF THE
27 STEPS, ONE OF THE INITIAL STEPS THAT WE TALKED
28 ABOUT EARLIER WHICH CAN START TO LEAD YOU ON THE
5369

1 ROAD TO LUNG CANCER.
2 BUT I WOULD HOPE AT THAT POINT FROM
3 WHEN I WAS HERE A COUPLE DAYS AGO THAT WE
4 UNDERSTAND THAT THE DEVELOPMENT OF LUNG CANCER IS
5 JUST NOT, BOOM, ONE THING HAPPENS AND YOU GET LUNG
6 CANCER.
7 YOU KNOW, EVEN THE SURGEON GENERAL,
8 WE ALL KNOW NOW THAT LUNG CANCER IS A VERY
9 COMPLICATED PROCESS, A LOT OF DIFFERENT THINGS HAVE
10 TO HAPPEN, A LOT OF DIFFERENT GENES NEED TO BE
11 KNOCKED OUT BEFORE LUNG CANCER CAN OCCUR.
12 AND SO IT BECOMES A DIFFICULTY
13 WHEN -- WELL, I AM GOING ON, I AM SORRY.
14 Q. DIDN'T YOU, AND NOT MR. MICHAELS,
15 DIDN'T YOU ACTUALLY, AS IT TURNS OUT, INITIATE THE
16 PROCESS OF BECOMING AN EXPERT IN THIS CASE BY
17 WRITING A LETTER TO THE C.T.R. BEFORE THEY EVER
18 CONTACTED YOU?
19 A. I WROTE A LITTLE TO C.T.R. SAYING I
20 WAS SORRY THAT, THAT THE PROGRAM WOULD NO LONGER
21 CONTINUE.
22 Q. STOP THERE FOR A SECOND, IF YOU

23 WOULD, PLEASE.
24 HOW DID YOU KNOW, BEFORE YOU WROTE
25 THAT LETTER, THAT THE PROGRAM WOULD NO LONGER
26 CONTINUE?
27 A. I RECEIVED A LETTER FROM, I THINK
28 IT WAS, EITHER FROM GLENN OR FROM FORD, ONE OF THE
5370
1 PEOPLE IN C.T.R., WHO SAID THAT THE PROGRAM WOULD
2 NO LONGER CONTINUE.
3 Q. AND DID IT GIVE A REASON?
4 A. YES, IT DID. IT SAYS THAT --
5 MR. CARLTON: OBJECTION, HEARSAY.
6 MR. PIUZE: I WILL WITHDRAW THE QUESTION.
7 Q BY MR. PIUZE: SOMETIME IN 1997,
8 YOU GOT A LETTER FROM C.T.R. SAYING WE ARE ALL
9 DONE; RIGHT?
10 A. I THINK IN THAT TIMEFRAME, YES.
11 Q. AND YOU WROTE A LETTER BACK TO THE
12 C.T.R. ON YOUR OWN INITIATIVE; RIGHT?
13 A. YES, I DID.
14 Q. AND YOU SAID WHAT?
15 A. I TOLD THEM THAT I WAS SORRY TO SEE
16 THE PROGRAM CLOSE AND I APPRECIATED THEIR SUPPORT
17 TO MY RESEARCH. I KNEW THAT THERE WERE -- I DON'T
18 HAVE THAT LETTER MEMORIZED, BUT THE GIST OF THE
19 LETTER WAS THAT THE SUPPORT TO YOUNG INVESTIGATORS
20 WAS VERY IMPORTANT AND THAT MY EXPERIENCE WITH THEM
21 HAD BEEN A VERY POSITIVE ONE.
22 Q. ONE OF THE THINGS YOU SAID, AND
23 CORRECT ME IF I AM WRONG, YOU WROTE A LETTER TO
24 HARMON MCALLISTER SAYING YOU BELIEVE THAT THE
25 ALLEGATIONS AGAINST C.T.R. WERE ALL WRONG; CORRECT?
26 A. YES, I DID.
27 Q. THAT YOU FELT THE C.T.R. HAD
28 TREATED YOU FAIRLY IN THE PAST WHEN YOU HAD ASKED
5371
1 FOR RESEARCH MONEY AND THEY HAD GIVEN IT TO YOU?
2 A. YES, I DID.
3 Q. AND IN THE PAST THEY HAD GIVEN YOU
4 WHAT, ABOUT \$300,000 IN RESEARCH MONEY?
5 A. IN THE PAST, NO, THEY GAVE ME ABOUT
6 A HALF MILLION.
7 Q. A HALF MILLION DOLLARS IN RESEARCH
8 MONEY.
9 THEY NEVER INTERFERED WITH YOUR
10 RESEARCH AND LET YOU DO WHAT YOU WANTED?
11 A. CORRECT.
12 Q. AND THOUGHT IT WAS A CRYING SHAME
13 THAT THEY WERE CLOSING SHOP?
14 A. I DON'T KNOW IF THOSE ARE MY EXACT
15 WORDS BUT THAT WAS MY FEELINGS, YES.
16 Q. SO BEFORE YOU WERE EVER CONTACTED
17 TO BE AN EXPERT WITNESS IN THIS CASE, OR BEFORE YOU
18 WERE EVER CONTACTED AT ALL BY THE LAWYERS, YOU HAD
19 ALREADY DECIDED, HEY, C.T.R. IS A GREAT GUY AND YOU
20 SAID SO IN THAT LETTER?
21 A. WHAT I SAID WAS THAT MY PERSONAL
22 EXPERIENCE WITH C.T.R. WAS VERY POSITIVE, YES.
23 Q. OKAY, FINE. SO THAT WAS YOUR
24 THOUGHT GOING INTO YOUR INVESTIGATION; RIGHT?
25 A. MY THOUGHTS GOING INTO MY
26 INVESTIGATION, WHICH I ALSO MADE CLEAR TO THE
27 LAWYERS WAS THAT MY PERSONAL EXPERIENCES WERE ONE

28 THING, IF I AM GOING TO LOOK AT THE RESEARCH
5372

1 PROGRAM, I NEED TO LOOK AT THE ENTIRE RESEARCH
2 PROGRAM.

3 Q. FINE.

4 A. AND THAT IS WHY THERE HAS BEEN SO
5 MANY HOURS SPENT ON THIS IN RECONSTRUCTING WHAT IS
6 IT PRECISELY THAT THEY FUNDED, WHAT WERE THE
7 RESULTS OF THE FUNDING PROGRAM, CROSS-REFERENCING A
8 LOT OF THESE MATERIALS, THAT FUXE APPLICATION THAT
9 WAS IN CONTENTION THAT WE TALKED ABOUT EARLIER, WAS
10 THAT GRANT FUNDED?

11 WELL, I NEEDED TO GO BACK INTO THE
12 S.A.B. BOARD MINUTES, FIGURE OUT WHERE THAT WAS
13 DISCUSSED, I THINK CROSS-REFERENCED THAT BACK TO
14 THE ANNUAL REPORTS TO FIND OUT WHETHER OR NOT FUXE
15 ACTUALLY PUBLISHED ANYTHING, WHETHER HE HAD
16 ACKNOWLEDGED C.T.R. SUPPORT, SO I DID A LOT OF LEG
17 WORK IN THOSE TERMS.

18 AGAIN, AS I HAVE ALREADY EXPLAINED,
19 YOU KNOW, DID C.T.R. PREVENT PEOPLE FROM PUBLISHING
20 THINGS THAT MIGHT BE CONSIDERED DETRIMENTAL TO THE
21 INDUSTRY?

22 I SPENT A LOT OF TIME LOOKING AT
23 THE GRANTS WHICH WERE FUNDED AND THE GRANTS WHICH
24 WERE NOT FUNDED.

25 THE GRANTS WHICH WERE, WENT IN FOR
26 RENEWALS. THAT WOULD BE A WAY OF SUPPRESSING
27 RESEARCH IF THEY THOUGHT THAT WASN'T APPROPRIATE
28 RESEARCH FOR THE TOBACCO COMPANIES. AND IN FACT, I
5373

1 WENT BACK AND CHECKED THOSE. I FOLLOWED VARIOUS
2 RESEARCHERS WHO WERE PRIVILEGED -- PUBLISHING
3 THINGS SUCH AS CIGARETTE SMOKE CAN CAUSE DNA
4 ADDUCTS.
5 CIGARETTE SMOKE CAN CAUSE THOSE
6 GROSS DNA EXCHANGES, GIVEN THE FACT THAT THOSE ARE
7 SOME OF THE HALLMARKS THAT WE SEE IN CELLS WHICH
8 EVENTUALLY BECOME CANCEROUS. AND SO THOSE ARE THE
9 THINGS THAT I DID IN ORDER TO DEVELOP MY OPINIONS
10 HERE.

11 Q. I AM NOT VERY GOOD AT SPELLING, I
12 AM TOLD.

13 A. I AM NOT VERY GOOD AT MATH.

14 Q. I DON'T HAVE A PH.D. AS A
15 SCIENTIST?

16 A. YOU WILL FIND MOST SCIENTISTS, WE
17 DON'T WORRY SO MUCH ABOUT THE MATH. WE WORRY ABOUT
18 THE CONCEPT, THE IDEA, HOW TO PUT TOGETHER, HOW TO
19 COMMUNICATE SCIENTIFIC IDEAS TO OTHER PEOPLE.

20 Q. SO DO YOU THINK, NOW, ONCE YOU DID
21 ALL OF YOUR INVESTIGATION, AND BY THE WAY, THE
22 AMOUNT OF TIME YOU TOOK TO DO IT AMOUNTED, AND THE
23 MONEY YOU GOT COMPENSATED FOR DOING THAT WORK,
24 AMOUNTED TO A YEAR AND A HALF OF YOUR SALARY OVER
25 AT UNIVERSITY OF NEVADA, LAS VEGAS; RIGHT?

26 A. OVER THE TWO YEARS, YES.

27 ACTUALLY OVER THE TWO YEARS, NO, IT
28 WAS ABOUT, IT WAS A LITTLE MORE THAN MY SALARY OVER
5374

1 TWO YEARS.

2 THEY DON'T PAY UNIVERSITY
3 PROFESSORS VERY MUCH.

4 Q. I KNOW.
5 ANYWAY, MR. MICHAELS PAID YOU MORE
6 THAN THE STATE OF NEVADA OVER THOSE TWO YEARS;
7 RIGHT?
8 A. OVER THOSE TWO YEARS, NO. OVER THE
9 TWO-YEAR PERIOD, IF YOU LOOK AT MY SALARY OVER A
10 TWO-YEAR PERIOD AND YOU LOOK AT WHAT C.T.R.
11 PROVIDED ME FOR A TWO-YEAR PERIOD, THE UNIVERSITY
12 OF NEVADA DID PAY ME MORE.
13 Q. A LITTLE MORE.
14 A. TWO-THIRDS MORE.
15 Q. YOUR SALARY IS 58,000 A YEAR?
16 A. WELL, MY SALARY IS ABOUT 50,000 A
17 YEAR.
18 Q. AND BEFORE THIS DEPOSITION EVER
19 OCCURRED, YOU BILLED 52,000, AND SINCE THE
20 DEPOSITION, YOU BILLED ANOTHER 30,000?
21 A. CORRECT.
22 Q. SO 80 VERSUS 50, ONE WAY OR THE
23 OTHER, AFTER DOING ALL OF THAT RESEARCH, WHAT IT
24 DID WAS IT MADE YOU FEEL EVEN STRONGER ABOUT THE
25 FACT THAT THE C.T.R. WAS NOT UNDER THE THUMB OF THE
26 TOBACCO INDUSTRY; CORRECT?
27 A. YES. CORRECT. AND I WAS ACTUALLY
28 VERY IMPRESSED ABOUT THE CONTRIBUTIONS THAT THE
5375
1 C.T.R. RECIPIENTS HAD MADE TO OUR UNDERSTANDING OF
2 CANCER AND SPECIFICALLY OF LUNG CANCER.
3 Q. I AM LOOKING AT THIS CHARGE OVER
4 HERE NOW. WHO WAS MORE RIGHT, DO YOU THINK, THE
5 MANAGEMENT AT LORILLARD -- EXCUSE ME -- THE PEOPLE
6 AT LORILLARD THAT WROTE THAT MEMO?
7 A. THE PERSON WHO WROTE THE MEMO AT
8 LORILLARD.
9 Q. -- OR DR. OSDENE OVER AT PHILIP
10 MORRIS? WAS LORILLARD, WHEN IT SAYS, WE HAVE AGAIN
11 ABDICATED SCIENTIFIC RESEARCH DIRECTIONAL
12 MANAGEMENT OF THE INDUSTRY TO THE LAWYER, WITH
13 VIRTUALLY NO INVOLVEMENT ON THE PART OF SCIENTIFIC
14 OR BUSINESS MANAGEMENT. LORILLARD'S MANAGEMENT IS
15 OPPOSED TO THE TOTAL INDUSTRY FUTURE BEING IN THE
16 HANDS OF THE COMMITTEE OF COUNCIL, OR, WAS MR.
17 OSDENE MORE CORRECT THAT HE DIDN'T LIKE WHAT C.T.R.
18 WAS DOING, BECAUSE WHETHER HE WAS SPEAKING FOR
19 PHILIP MORRIS OR NOT, MR. OSDENE DIDN'T LIKE
20 BIOMEDICAL RESEARCH, WHICH OF THOSE TWO POSITIONS
21 DO YOU THINK IS MORE A CORRECT?
22 MR. CARLTON: VAGUE, AMBIGUOUS,
23 ARGUMENTATIVE.
24 THE COURT: ARGUMENTATIVE, SUSTAINED.
25 MR. PIUZE: I AM GOING TO SIT DOWN ON A
26 SUSTAIN.
27 THANK YOU VERY MUCH.
28 THANK YOU.
5376
1 THE WITNESS: YOU ARE WELCOME.
2 MR. CARLTON: THANK YOU, YOUR HONOR.
3
4 REDIRECT EXAMINATION
5
6 BY MR. CARLTON:
7 Q. GOOD MORNING, DR. HOSHIZAKI.
8 HOW LONG WAS C.T.R. AROUND?

9 A. C.T.R. WAS AROUND FROM '54 TO '97.
10 Q. 43 YEARS.
11 YOU SAW SOME DOCUMENT IN THE COURSE
12 OF YOUR PREPARATION FOR THE PROJECT, PREPARING YOUR
13 OPINIONS, REFLECTING THAT SOME PEOPLE WITHIN THE
14 INDUSTRY WERE CRITICAL OF C.T.R.
15 A. CORRECT.
16 Q. ABOUT HOW MANY OF THOSE DID YOU
17 SEE?
18 A. PROBABLY ABOUT 10 OR 12 DOCUMENTS.
19 Q. 10 OR 12 DOCUMENTS.
20 HOW MANY DO YOU THINK YOU HAVE SEEN
21 SINCE YOU HAVE BEEN ON THE STAND HERE?
22 A. IT FEELS LIKE A LOT, BUT I THINK I
23 HAVE SEEN MAYBE ABOUT SIX.
24 Q. MAYBE SIX DOCUMENTS. 43 YEARS OF
25 HISTORY.
26 LET'S LOOK AT ONE OF THOSE, SEE IF
27 I CAN FIND IT HERE. HERE'S ONE WE LOOK AT, AND
28 THIS IS 10,025.
5377
1 YOU REMEMBER TALKING ABOUT THAT ONE
2 LORILLARD DOCUMENT?
3 A. YES.
4 Q. AND WE LOOKED AT A FEW ASPECTS OF
5 THIS.
6 THIS DOCUMENT SORT OF BOILS DOWN TO
7 A RECOMMENDATION, DIDN'T IT? THIS WAS THE
8 DOCUMENT, BY THE WAY, FROM ALEX SPEARS TO C. H.
9 JUDGE. DO YOU REMEMBER THAT, 1974?
10 AND ON PAGE 4 OF THIS MEMO, YOU --
11 THERE'S A HIGHLIGHTED PORTION HERE. BUT LET'S LOOK
12 AT THIS PARAGRAPH, IF WE COULD, SEE IF I CAN GET A
13 LITTLE BIT CLOSER.
14 "IT IS SUGGESTED THAT C.T.R.
15 BE COMBINED WITH THE TOBACCO INSTITUTE
16 ADMINISTRATIVELY AND THAT AN INDUSTRY
17 COMMITTEE ALONG WITH THE STAFF OF THE
18 INSTITUTE IN C.T.R. BE DESIGNATED TO
19 HELP DEFINE THE PROGRAM."
20 Q. DID THAT EVER HAPPEN?
21 A. NO, IT DIDN'T.
22 Q. SO WE HAVE GOT THIS MEMO FROM
23 LORILLARD, 1974, THAT MR. PIUZE POINTED OUT, MAKES
24 A RECOMMENDATION AND THAT RECOMMENDATION WASN'T
25 ACCEPTED?
26 A. CORRECT.
27 Q. YOU SAW OTHER DOCUMENTS WHERE
28 RECOMMENDATIONS TO CHANGE C.T.R. WERE MADE?
5378
1 A. CERTAINLY, INCLUDING A
2 RECOMMENDATION TO TERMINATE C.T.R.
3 Q. DID THAT HAPPEN?
4 A. NO, IT DIDN'T.
5 Q. WHO WERE SOME OF THE PEOPLE WHO
6 WROTE THOSE MEMOS, MADE THOSE RECOMMENDATIONS, THAT
7 YOU CAN REMEMBER?
8 A. WELL, CERTAINLY DR. WAKEHAM WAS A
9 VERY AVID LETTER WRITER AND DR. OSDENE AND ALEX
10 SPEARS.
11 Q. CAN YOU REMEMBER ANY OTHER NAMES?
12 A. OFFHAND, I CAN'T.
13 Q. CAN YOU REMEMBER HOW MANY PEOPLE

14 YOU NOTICED WERE AUTHORIZING MEMOS AND
15 RECOMMENDATIONS LIKE THAT? WERE THERE A LOT OF
16 PEOPLE?

17 A. NO. REALLY, THOSE WERE THE --
18 THOSE ARE THE THREE GUYS.

19 Q. THREE GUYS, MAYBE A FEW MORE?

20 A. POSSIBLY A DOZEN MEMOS.

21 Q. A DOZEN MEMOS?

22 A. CORRECT.

23 Q. 43 YEARS?

24 A. CORRECT.

25 Q. NOW, YOU LOOKED, AS YOU TOLD US, AT

26 A LOT OF DOCUMENTS?

27 A. YES. YES, I DID.

28 Q. AND BASED ON EVERYTHING YOU HAVE

5379

1 SEEN, DID THE RESEARCH PROGRAM AT C.T.R. EVER

2 CHANGE SIGNIFICANTLY?

3 A. FROM EVERYTHING I READ, THERE'S NO

4 INDICATION THAT IT DID. AND CERTAINLY THAT

5 C.L.I.P.T. MEMO INDICATES WHAT C.T.R.'S RESPONSES

6 WOULD BE, HAD SOMEONE ACTUALLY GONE IN AND TRIED TO

7 CHANGE THINGS.

8 Q. DID DR. WAKEHAM, HE COMPLAINED A

9 FEW TIMES OVER A PERIOD OF YEARS?

10 A. YES. DR. WAKEHAM, YES, HE DID, AND

11 IN FACT, EVENTUALLY HE WAS REPRIMANDED BY, I

12 PRESUME, HIS ADMINISTRATIVE BOSS AND TOLD TO GET

13 WITH THE PROGRAM AND TRY TO BE A LITTLE MORE

14 SUPPORTIVE AND POSITIVE. I THINK THE TERM WAS BE

15 MORE POSITIVE ABOUT C.T.R.

16 Q. HE WAS TOLD BY MR. CULLMAN, WASN'T

17 HE, TO BE MORE POSITIVE ABOUT C.T.R.?

18 A. YES, HE WAS.

19 Q. THAT DIDN'T REALLY STOP HIM FROM

20 COMPLAINING, THOUGH, DID IT?

21 A. NO. AND IN FACT, I THINK THAT

22 FOLLOWING THAT MEMO, WAKEHAM TRIED TO PROVIDE THE

23 C.T.R. ADVISORY BOARD WITH HIS RANKINGS OF A GROUP

24 OF APPLICATIONS. AND THOSE RANKINGS WERE,

25 BASICALLY, DISREGARDED BY C.T.R.

26 I WENT THROUGH, LOOKED AT WAKEHAM'S

27 RANKINGS, WENT TO FIGURE OUT WHICH GRANTS WERE

28 FUNDED, WHICH GRANTS WEREN'T OF THE ONES THAT HE

5380

1 HAD RECOMMENDED AND THE ONES THAT HE FELT HAD THE

2 LEAST RELEVANCE. IN FACT, THOSE PROPOSALS WERE

3 FUNDED.

4 SO WAKEHAM'S CRITERIA FOR WHAT WAS

5 BEST WAS DIFFERENT FROM THE ADVISORY BOARD AND THE

6 ADVISORY BOARD CONTINUED TO FUND THINGS ACCORDING

7 TO WHAT THEY SAW FIT.

8 Q. SO WAS IT YOUR IMPRESSION, LOOKING

9 AT THESE COMPLAINTS BY WAKEHAM OVER A SERIES OF

10 YEARS, THAT HE WAS LISTEN TO BUY C.T.R.?

11 A. CERTAINLY NOT.

12 Q. WAS IT YOUR IMPRESSION THAT HE WAS

13 LISTENED TO BY PHILIP MORRIS?

14 A. WELL, THAT LAST MEMO WHERE HE WAS

15 BEING REPRIMANDED INDICATED TO ME THAT THE GUY I

16 THINK, CULLMAN, JUST GOT TIRED OF GETTING THESE

17 MEMOS.

18 Q. HOW ABOUT DR. OSDENE, HE COMPLAINED

19 ABOUT C.T.R.?
20 A. YES, HE DID.
21 Q. LIKEWISE, OVER A PERIOD OF YEARS?
22 A. YES, HE DID.
23 Q. C.T.R., WAS IT EVER CHANGED --
24 A. NO.
25 Q. -- TO COMPORT WITH HIS SUGGESTIONS
26 AND RECOMMENDATIONS?
27 A. AS BEST AS I CAN TELL, IT, AGAIN,
28 HAD NO IMPACT ON THE RESEARCH PROGRAM.
5381
1 Q. SO OVER THESE YEARS, WE HAVE GOT
2 THESE COMPLAINTS BY A FEW PEOPLE THAT WERE NOT
3 LISTENED TO. NOTHING WAS DONE TO CHANGE C.T.R. IN
4 RESPONSE TO THEM?
5 A. CORRECT.
6 Q. NOW, LET'S LOOK AT THIS CHART THAT
7 MR. PIUZE HAS UP HERE. CAN YOU SEE IT FROM WHERE
8 YOU ARE?
9 A. YES, I CAN.
10 Q. HE WROTE TWO COLUMNS. ONE SIDE IS
11 LORILLARD AND HE HAS GOT THESE STATEMENTS HERE.
12 DO YOU REMEMBER HOW WE GOT TO THIS
13 POINT?
14 A. YES. THAT WAS FROM A MEMO WHICH WE
15 DON'T KNOW WHO WROTE THE MEMO, WE DON'T KNOW WHO
16 THE MEMO WENT TO. AND IT JUST HAD SOME, WHOEVER
17 WROTE THE MEMO PRESUMABLY, GOOD OPINIONS, THEIR
18 OPINIONS OF WHAT LORILLARD'S STANCE WAS.
19 Q. WE GOT HERE BECAUSE HE HAD SHOWN
20 YOU TWO DOCUMENTS FROM LORILLARD, DIDN'T HE?
21 A. CORRECT.
22 Q. ONE WAS THE MEMO YOU HAVE JUST
23 DESCRIBED AND THE OTHER ONE WAS THE MEMO THAT I
24 SHOWED YOU ON THE ELMO A FEW MINUTES AGO?
25 A. CORRECT.
26 Q. AND MR. PIUZE ASKED YOU,
27 SPECIFICALLY, BASED ON THOSE TWO DOCUMENTS, WAS IT
28 YOUR IMPRESSION THAT LORILLARD'S POSITION OR THE
5382
1 POSITION OF THE WRITERS WAS THIS; RIGHT?
2 A. CORRECT.
3 Q. AND YOU RESPONDED YES, THOSE TWO
4 DOCUMENTS ONLY.
5 SO LET'S LOOK AT THE THINGS THAT
6 MR. PIUZE WROTE DOWN HERE.
7 LORILLARD, POLITICAL FRONT,
8 DESCRIBING C.T.R.
9 C.T.R., P. R. FRONT. C.T.R.,
10 LITIGATION FRONT. C.T.R., RUN BY THE LAWYERS.
11 THOSE TWO DOCUMENTS SUGGEST C.T.R.
12 IS A PHONY. WOULD THAT BE ACCURATE?
13 A. YES, THAT WOULD BE AN ACCURATE
14 DESCRIPTION OF THOSE TWO DOCUMENTS.
15 Q. AND THEN ON THE OTHER SIDE OF THE
16 COIN, YOU SAW A FEW OTHER DOCUMENTS; RIGHT?
17 A. CORRECT.
18 Q. DR. OSDENE DOESN'T LIKE THE WORK,
19 YOU DIDN'T DEGREE WITH THAT, DOESN'T LIKE THE
20 BIOMEDICAL RESEARCH?
21 A. CORRECT.
22 Q. SO MR. PIUZE HAS SHOWN YOU, WHAT, A
23 HALF DOZEN DOCUMENTS AND DRAWN THESE TWO COLUMNS, A

24 HALF DOZEN DOCUMENTS BASED ON C.T.R.'S 43-YEAR
25 HISTORY?

26 A. CORRECT.

27 Q. DOES IT MAKE ANY SENSE TO YOU THAT

28 C.T.R. COULD BE A FRONT AND THAT IT COULD BE, AT
5383

1 THE SAME TIME, DOING BIOMEDICAL RESEARCH THAT WAS
2 JUST TOO GOOD?

3 A. WELL, IT DOESN'T MAKE SENSE, THOSE

4 TWO COLUMNS. AND THE REASON WHY IT DOESN'T MAKE
5 SENSE IS THAT WE ARE LOOKING AT OPINIONS OF TWO
6 INDIVIDUALS, I PRESUME TWO INDIVIDUALS. AND WHEN I
7 REVIEWED THOSE DOCUMENTS, IT REALLY DIDN'T HAVE AN
8 IMPACT ON MY ASSESSMENT OF THE C.T.R. RESEARCH
9 PROGRAM.

10 I LOOKED AT THAT RESEARCH PROGRAM

11 BASED ON WHAT WAS PRODUCED IN THE PROGRAM, HOW
12 THOSE GRANTS WERE FUNDED, WHO WAS FUNDED, THE TYPE
13 OF RESEARCH THAT WAS FUNDED, AND THEN THE FINAL
14 PRODUCT, WHICH WAS WHAT RESULTS CAME OUT AND DID
15 THOSE RESULTS HAVE AN IMPACT ON OUR UNDERSTANDING
16 OF SMOKING AND LUNG CANCER.

17 AND IT HAS HAD A TREMENDOUS IMPACT.

18 SO THE RESEARCH PROGRAM, THE GRANTING PROGRAM WAS A
19 BONA FIDE GRANTING PROGRAM WHICH HAD A POSITIVE
20 IMPACT IN OUR UNDERSTANDING OF CANCER.

21 Q. SO THE BOTTOM LINE IN YOUR
22 ASSESSMENT OF C.T.R. IS NOT THE INCONSISTENT
23 OPINIONS OF A FEW PEOPLE BASED ON A FEW DOCUMENTS,
24 BUT YOUR REVIEW OF THEIR ACTUAL RESEARCH PROGRAM
25 AND WHAT THEY DID?

26 A. YES, AND THEIR FINAL RESULTS AND
27 HOW DID THAT FIT IN WITH THE RESEARCH OF OTHER
28 BIOMEDICAL RESEARCHERS AT THE TIME.

5384

1 MR. CARLTON: MAY I HAVE JUST A MOMENT,
2 YOUR HONOR.

3 THE COURT: YES.

4 Q BY MR. CARLTON: HERE'S ANOTHER
5 DOCUMENT THAT MR. PIUZE SHOWED YOU, RJR, DECEMBER
6 9TH, 1981. DO YOU RECALL DISCUSSING THIS?

7 A. YES, I DID.

8 Q. THIS WAS A MEMORANDUM THAT IS ON
9 THE LETTERHEAD OF THIS INDIVIDUAL F. G. COLBY,
10 ASSOCIATE DIRECTOR OF SCIENTIFIC ISSUES, RESEARCH
11 DEPARTMENT.

12 I DON'T KNOW IF YOU CAN SEE THAT.

13 LET'S SEE IF WE CAN GET IN.

14 DO YOU SEE THAT?

15 A. YES. YES, I CAN.

16 Q. AND IT WAS DIRECTED TO SOMEBODY
17 NAMED MR. J. GILES; RIGHT?

18 A. CORRECT.

19 Q. MR. PIUZE SHOWED YOU THIS
20 HIGHLIGHTED PORTION AT THE BOTTOM.
21 "A NUMBER OF RESEARCH
22 PROPOSALS TO BE GRANTED OR NOT GRANTED
23 BY THE COUNCIL FOR TOBACCO RESEARCH
24 WERE ASSESSED AT THE REQUEST OF THE
25 LEGAL DEPARTMENT."

26 NOW, MR. PIUZE HAD ASKED YOU
27 QUESTIONS ABOUT ASSESSMENT BY THE LEGAL DEPARTMENT.
28 BUT THIS DOESN'T SAY THAT THE LEGAL DEPARTMENT WAS

5385

1 GOING TO BE DOING THE ASSESSMENT.
2 A. DOES IT?
3 Q. IT SAYS THEY WERE ASSESSED AT THE
4 REQUEST OF THE LEGAL DEPARTMENT.
5 A. CORRECT.
6 Q. ASSESSED. AND APPARENTLY THIS MR.
7 COLBY IN THE RESEARCH DEPARTMENT AT RJR HAD
8 SOMETHING TO DO WITH THAT. HE IS RESPONDING TO
9 THIS ISSUE?
10 A. YES, HE IS.
11 Q. YOU DON'T HAVE ANY IDEA WHAT THE
12 ASSESSMENT WAS?
13 A. NO, I DON'T.
14 Q. WOULDN'T YOU AGREE THAT IF ANYBODY
15 IS GOING TO ASSESS, FOR ONE REASON OR ANOTHER, WHAT
16 C.T.R. WAS DOING, IT SHOULD BE PEOPLE IN THE
17 RESEARCH DEPARTMENT?
18 A. LIKELY, BUT, YOU KNOW, AGAIN, THAT
19 SCIENTIFIC ADVISORY BOARD IS AN ENTITY OF -- IN AND
20 OF ITSELF. I DON'T THINK THAT THEY ARE GOING TO
21 TAKE MUCH HEAT FROM ASSESSMENTS FROM PEOPLE OUTSIDE
22 THEIR OWN GROUP.
23 Q. WELL, IF RJR WANTED TO UNDERSTAND
24 WHAT THE C.T.R. WAS DOING, WOULDN'T THEY GO TO
25 THEIR RESEARCH DEPARTMENT TO FIGURE IT OUT?
26 A. YES, THEY WOULD.
27 Q. OKAY.
28 MR. CARLTON: NOTHING FURTHER.

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1 RECROSS-EXAMINATION
2
3 BY MR. PIUZE:
4 Q. OBVIOUSLY, I KNOW THOSE TWO COLUMNS
5 CAN'T CO-EXIST. AND SO THAT'S WHY I ASKED YOU,
6 FROM YOUR VIEWPOINT, WHICH OF THESE TWO VIEWPOINTS
7 DID YOU THINK WAS MORE ACCURATE, LORILLARD'S THAT
8 WAS JUST A FRONT, OR OSDENE'S OVER AT PHILIP MORRIS
9 THAT THE RESEARCH IT WAS DOING WAS TOO GOOD, IT WAS
10 BIOLOGICAL RESEARCH AND THEY DIDN'T LIKE BIOLOGICAL
11 RESEARCH? WHICH OF THOSE TWO DO YOU THINK IS MOST
12 ACCURATE?
13 MR. CARLTON: OBJECT, IT ASSUMES THAT
14 EITHER ONE OF THOSE IS MORE ACCURATE.
15 THE COURT: THE DOOR HAS BEEN OPENED.
16 OVERRULED.
17 THE WITNESS: WHICH OF THOSE TWO IS MORE
18 ACCURATE?
19 MR. PIUZE: YES.
20 THE WITNESS: THOSE ARE THE OPINIONS OF A
21 COUPLE OF INDIVIDUALS. AND YOU KNOW, I AM HERE IN
22 TERMS OF TALKING ABOUT THE C.T.R. AND ITS RESEARCH
23 PROGRAM. AND SO, YOU KNOW, YOU KEEP ASKING ME TO
24 LOOK AT THESE DOCUMENTS FROM, FROM THE TOBACCO
25 COMPANIES AND STUFF. I REALLY, YOU KNOW, I REALLY
26 DON'T -- THOSE GUYS JUST DIDN'T HAVE AN IMPACT.
27 Q BY MR. PIUZE: OKAY. TELL ME
28 WHAT'S MORE ACCURATE, THE C.T.R. WHICH FUNDED YOUR
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1 RESEARCH TO WHOM YOU WROTE UNSOLICITED ON WHOSE
2 BEHALF YOU ARE TESTIFYING HERE TODAY, WAS A FRONT
3 THAT DIDN'T DO ANY GOOD? YOU DISAGREE WITH THAT;
4 RIGHT?

5 A. YES, I DO.
6 Q. OKAY. THE C.T.R., DID GOOD
7 BIOLOGICAL RESEARCH?
8 A. YES, THEY DID.
9 Q. YOU KNOW THE C.T.R. IS NOT A
10 DEFENDANT IN THIS CASE; RIGHT?
11 A. I AM AFRAID I AM REALLY NAIVE ABOUT
12 LEGAL TERMS. I DON'T KNOW WHAT YOU MEAN AS A
13 DEFENDANT.
14 Q. FINE.
15 A. I KNOW THAT THEY WERE LISTED IN
16 SOMETHING CALLED A COMPLAINT.
17 Q. YOU READ THE COMPLAINT?
18 A. YES, I DID.
19 Q. YOU NEVER SAW THE C.T.R. NAME ANY
20 PLACE IN THE COMPLAINT?
21 A. IS THAT CORRECT?
22 Q. AS A DEFENDANT, YEAH. WHO IS BEING
23 SUED HERE, PHILIP MORRIS IS BEING SUED HERE?
24 THE COURT: DO YOU KNOW?
25 MR. CARLTON: I WILL OBJECT.
26 THE COURT: HOLD ON. HOLD ON TO BOTH OF
27 YOU.
28 DO YOU KNOW ONE WAY OR ANOTHER WHO
5388
1 IS BEING SUED HERE?
2 THE WITNESS: MY UNDERSTANDING IT IS
3 PHILIP MORRIS BEING SUED.
4 THE COURT: OKAY.
5 Q BY MR. PIUZE: I DIDN'T HEAR --
6 FORGIVE ME, IT'S LAWYERS OVER --
7 THE COURT: SHE SAID HER UNDERSTANDING IS
8 THAT PHILIP MORRIS IS BEING SUED.
9 MR. PIUZE: RIGHT, OKAY.
10 Q BY MR. PIUZE: SO LOOK, FROM
11 THE -- I NEVER GAVE YOU ANY DOCUMENTS TO LOOK AT,
12 DID I?
13 A. NO, YOU DIDN'T.
14 Q. I NEVER MET YOU IN LAS VEGAS, DID
15 I?
16 A. NO.
17 Q. FROM THE DOCUMENTS THAT SOMEONE
18 ELSE GAVE YOU, THAT YOU REVIEWED IN PREPARATION FOR
19 TESTIMONY, WHETHER IT WAS ONLY THREE GUYS AT PHILIP
20 MORRIS OR ROGUES OUT ON THEIR OWN OR WHETHER IT WAS
21 THREE OR FOUR OR FIVE GUYS AT PHILIP MORRIS THAT
22 WERE DEMONSTRATING THE CORPORATE CULTURE, PHILIP
23 MORRIS'S POSITION IS THAT THEY WERE CRITICAL OF
24 YOUR C.T.R. BECAUSE IT WAS DOING BIOMEDICAL
25 RESEARCH AND PHILIP MORRIS DIDN'T WANT IT DONE;
26 RIGHT?
27 MR. CARLTON: OBJECTION, ARGUMENTATIVE.
28 THE COURT: IF YOU KNOW.
5389
1 THE WITNESS: BASED ON THE INTERNAL
2 DOCUMENTS THAT I READ, THAT WAS THE OPINION OF
3 DR. OSDENE.
4 MR. PIUZE: I HAVE NO FURTHER QUESTIONS.
5 MR. CARLTON: NOTHING FURTHER.
6 THE COURT: ALL RIGHT. LADIES AND
7 GENTLEMEN, THAT COMPLETES OUR EVIDENCE FOR THIS
8 MORNING.
9 WE WILL BE BACK AT 1:30 THIS

10 AFTERNOON. DON'T DISCUSS THE CASE WITH ANYONE.

11 MA'AM, YOU MAY STEP DOWN. YOU ARE EXCUSED.

12

13 (AT 12 NOON, THE LUNCH

14 RECESS WAS TAKEN TO

15 1:30 P.M. OF THE SAME DAY.)

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